



FY **06**

NATIONAL MEDIATION BOARD  
ANNUAL PERFORMANCE AND  
ACCOUNTABILITY REPORT



# Chairman's Letter

## November 14, 2006

I am pleased to report that the National Mediation Board met or exceeded each of its mission objectives for Fiscal Year 2006, enabling the National Mediation Board to successfully pursue its statutory mandate to minimize work stoppages in the railroad and airline industries. The agency's staff continued to perform at a very high level in FY 2006.

In an environment of heavy economic losses and multiple bankruptcies in the airline industry, the NMB mediation staff assisted the parties in reaching voluntary agreements in all but three cases: a Presidential Emergency Board in one railroad case and self-help in two airline cases. None of the exceptions interrupted interstate commerce to a degree such as to deprive any section of the country of essential transportation service.

The Office of Alternative Dispute Resolution Services continued to improve the agency's public, online archive, known as the "Knowledge Store." The Knowledge Store is currently being widely used by the parties and the public: receiving an average of over four thousand Internet "hits" per month. During FY 2006, the National Archives and Records Administration approved the NMB's proposed all-electronic records schedule, giving the NMB the first completely paperless records management system in the U.S. Federal Government.

During FY 2006, the Agency's Office of Legal Affairs continued to provide a high level of representation service to the public. OLA staff continued to meet or exceed all of the standards set for representation cases, including responding to all representation applications within two business days. All active representation cases within its purview for FY 2006 were investigated and closed.

The NMB Arbitration program further streamlined its operational procedures and continued to bring innovative programs to its Section 3 work. During FY 2006, Online Arbitration was adopted by a number of carriers and unions, beginning a trend that will allow the agency to get more from funds allocated to Section 3 proceedings.

The Board's Office of Administration continued to support the President's Management Agenda in all Government-wide Initiatives such as Human Capital, Competitive Sourcing and Financial Performance. The NMB Financial Report again received an unqualified opinion, the highest rating an agency can receive from its auditors. The NMB Internal Control Report shows no pending, non-conformance or material weakness issues in any NMB department.

This Performance and Accountability Report includes a comprehensive set of performance Goals and Results pursuant to the Government Performance and Results Act. Also incorporated, as required, are the NMB Financial Report and the NMB Internal Control Report. Because the NMB is not subject to the CFO Act, this Annual Report may not contain some of the information required of CFO Act agencies.



**EDWARD J. FITZMAURICE, JR.**  
Chairman

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Please note: The terms and acronyms used throughout this Annual Report are defined in the Glossary, Appendix-C.

# Mission Statement

**The National Mediation Board (NMB) was established by the 1934 amendments to the Railway Labor Act (RLA) of 1926. It is an independent, federal agency performing a central role in facilitating harmonious labor-management relations within two of the nation's key transportation sectors: the railroads and airlines.**

The NMB is headed by a three-member board appointed by the President and confirmed by the Senate. The board designates a Chairman on a yearly basis. Mr. Edward Fitzmaurice, Jr. is currently the Chairman with Mr. Harry Hoglander and Ms Read Van de Water serving as Members.

Pursuant to the Railway Labor Act, the Agency's integrated dispute-resolution processes are designed to promote the following three goals, enabling the National Mediation Board to effect its statutory mandate to minimize work stoppages in the railroad and airline industries.

1. The resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;
2. The effectuation of employee rights of self-organization where a representation dispute exists; and
3. The resolution of disputes over the interpretation or application of existing agreements.

For further information, please refer to the agency's website at [www.nmb.gov](http://www.nmb.gov).

# RLA and NMB Functions

The Railway Labor Act (RLA) provides a comprehensive statutory framework for the resolution of labor-management disputes in the airline and railroad industries. Enacted in 1926 as a collaborative effort of labor and management, the RLA succeeded several previous federal statutes dating back to 1888. The 1926 Act provided for mandatory mediation and voluntary arbitration of railroad disputes in contract negotiations, as well as for Presidential Emergency Boards to enhance dispute resolution. Key amendments to the Act in 1934 established a three-member National Mediation Board (NMB) and authorized the resolution of employee representation disputes by the NMB. In 1936, the jurisdiction of the RLA was expanded to include the airline industry. The 1981 amendment to the Act permitted the creation of specialized Presidential Emergency Boards for collective bargaining disputes at certain commuter railroads.

## MEDIATION

The RLA requires labor and management to exert every reasonable effort to make and maintain collective bargaining agreements. Initially, the parties must give notice to each other of their proposals for new or revised agreements. Direct bargaining between the parties must commence promptly and continue in an effort to conclude a new collective bargaining agreement or to narrow their differences. Should parties fail to reach agreement during direct negotiations, either party or the parties jointly, may apply to the NMB for mediation. (An application for NMB mediation services may be obtained from the Agency's web site at [www.nmb.gov](http://www.nmb.gov).) Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. The NMB is obligated under the Act to use its "best efforts" to bring about a peaceful resolution of the dispute.

If such efforts do not settle the dispute, the NMB advises the parties and offers interest arbitration as an alternative approach to resolve the remaining issues. If either party rejects this offer of binding arbitration, the NMB releases the parties from formal mediation. This release triggers a thirty-day cooling off period. During this thirty-day period, the Agency continues to work with the parties to achieve a consensual solution to the dispute. However, if an agreement is not reached by the end of the thirty-day period, the parties are free to exercise lawful self-help. Lawful self-help includes carrier-imposed working conditions or a strike by the union/organization.

## PRESIDENTIAL EMERGENCY BOARDS

If the NMB determines, pursuant to Section 160 of the RLA, that a dispute threatens substantially to interrupt commerce to a degree that will deprive any section of the country of essential transportation service, the NMB notifies the President. The President may, at his discretion, establish a Presidential Emergency Board (PEB) to investigate and report back to the President, respecting such dispute, within 30 days from the date such PEB is created. After the Board has been created and for 30 days after such Board has made its report to the President, neither party to the dispute may exercise self-help.

Apart from the emergency board procedures provided by Section 160, Section 159A of the RLA provides special multi-step emergency procedures for unresolved disputes affecting publicly funded and operated commuter railroads and its employees. If the mediation procedures are exhausted, the parties to the dispute, or the Governor of any state where the railroad operates, may request that the President establish a PEB. The President is required to establish such a board if requested. If no settlement is reached within 60 days following the creation of the PEB, the NMB is required to conduct a public hearing on the dispute. If there is no settlement within 120 days after the creation of the PEB, any party or the Governor of any affected state, may request a second, final-offer PEB. No self help is permitted pending the exhaustion of these emergency procedures.

## ALTERNATIVE DISPUTE RESOLUTION

In addition to traditional mediation services, the NMB also provides Alternative Dispute Resolution (ADR) services. ADR services include facilitation, training and grievance mediation. The ADR program includes an Online Dispute Resolution (ODR) component, applying technology to the dispute resolution process. The purpose of the Board's ADR program is to assist the parties in learning and applying more-effective, less-confrontational methods for resolving their disputes. Another goal is to help the parties resolve more of their own disputes without outside intervention. The NMB believes that over time its ADR services will reduce and narrow the disputes which the parties bring to mediation.

## REPRESENTATION

Under the RLA, employees in the airline and railroad industries have the right to select a labor organization or individual to represent them for collective bargaining without “interference, influence or coercion” by the carrier. Employees may also decline representation. An RLA representation unit is a “craft or class,” which consists of the overall grouping of employees performing particular types of related duties and functions. The selection of a collective bargaining representative is accomplished on a system-wide basis, which includes all employees in the craft or class anywhere the carrier operates in the United States.

When a labor organization or individual files an application with the NMB to represent employees, the Agency assigns an investigator to conduct a representation investigation. (An application for a representation investigation may be obtained from the Agency’s web site at [www.nmb.gov](http://www.nmb.gov).) The investigator assigned to a case has the responsibility to determine if the craft or class the organization seeks to represent is system-wide and otherwise valid. NMB election procedures require that the application must be supported by a sufficient employee showing-of-interest to warrant the continuation of the investigation. If the employees are not already represented for collective bargaining purposes, a thirty-five percent showing is required. If the craft or class covered by the application already is represented and a collective bargaining agreement is in effect, the showing of interest requirement is a majority of the craft or class.

If the showing of interest requirement is met, the NMB continues the investigation, usually with a secret telephone electronic election. Only such employees that are found to be eligible to vote by the NMB are permitted to participate in the election. In order for a representative to be certified, a majority of the eligible voters must cast valid votes in support of representation. The NMB is responsible for ensuring that the requirements for a fair election process have been maintained. If the employees vote to be represented, the NMB issues a certification of that result which commences the carrier’s statutory duty to bargain with the certified representative.

## ARBITRATION

The RLA provides for both grievance and interest arbitration.

Grievance arbitration is a process for resolving disputes regarding the interpretation or application of an existing collective bargaining agreement. Grievances, known as “minor disputes” under the RLA, must be handled through Grievance Arbitration, if not otherwise resolved, and cannot be used by the parties to trigger self-help actions. The NMB has significant administrative responsibilities for the three types of grievance arbitration in the railroad industry. These types include those of the National Railroad Adjustment Board as well as arbitration panels established directly by the labor-management parties at each railroad: Public Law Boards and Special Boards of Adjustment. Grievance arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties’ expense. The NMB furnishes panels of prospective arbitrators for the parties’ selection in both the airline and railroad industries. (A request to be placed on the NMB Roster of Arbitrators may be obtained from the Board’s web site at [www.nmb.gov](http://www.nmb.gov).) The NMB also has substantial financial responsibilities for railroad arbitration proceedings in that it pays the salary and travel expenses of the arbitrators. Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

Interest arbitration is a process to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for interest arbitration, its use is not statutorily required. The NMB offers the parties the opportunity to use binding interest arbitration when the Agency has determined that further mediation efforts will not be successful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through interest arbitration. The NMB generally provides the parties with panels of potential arbitrators from which they select an individual to resolve their dispute. In some instances however, the parties agree to allow the NMB to directly appoint an arbitrator. Interest arbitration decisions are final and binding with very narrow grounds for judicial appeal.

# Board Members



**EDWARD J. FITZMAURICE, JR.**  
Chairman

Mr. Edward J. Fitzmaurice, Jr., became Chairman of the National Mediation Board, effective July 1, 2006. Chairman Fitzmaurice, a Member of the National Mediation Board since August 2, 2002, also served as Chairman from July 1, 2003, through June 30, 2004. He was nominated to the NMB by President Bush on November 9, 2001, and confirmed by the United States Senate on August 2, 2002.

After graduating from Villanova University, Mr. Fitzmaurice served four and a half years as an Officer of Marines. He was designated a Naval Aviator, and served in the Dominican Republic and Vietnam as a Captain and Aircraft Commander, receiving several decorations including the Armed Forces Expeditionary Medal and 11 strike/flight Air Medals, the Presidential Unit Citation and Navy Unit Commendation.

Upon release from active duty, Mr. Fitzmaurice became a pilot for Braniff International and served as a domestic and international Captain, Co-Pilot, and Flight Engineer.

Simultaneously with piloting for Braniff, he attended the Southern Methodist University School of Law and was licensed by the State Bar of Texas in 1971. Mr. Fitzmaurice is admitted to practice in the United States District Courts for the Northern, Eastern and Western Districts of Texas. He was an associate with the firm of Kern, Wooley and Maloney representing Underwriters at Lloyd's in aviation-related matters and was Of Counsel to the labor law firm of James L. Hicks and Associates, both in Dallas, Texas.

Mr. Fitzmaurice and his wife Marcia have two grown children; daughter Carey is a Senior Policy Analyst with the Environmental Protection Agency in Washington, D.C., and son Evan is an attorney with Jackoway Tyerman Wertheimer Austen Mandelbaum & Morris, P.C. in Los Angeles, California.



**HARRY R. HOGLANDER**  
Member

Harry R. Hoglander, a Member of the National Mediation Board since August 6, 2002, served as Chairman from July 1, 2004, through June 30, 2005. He was nominated to the NMB by President Bush on July 1st, 2002, and confirmed by the United States Senate on August 1, 2002.

Prior to joining the Board, Mr. Hoglander served as a Legislative Specialist in the office of Congressman John Tierney of Massachusetts. His responsibilities were: Transportation issues including aviation, rail and maritime, Labor, Defense and Veterans Affairs.

Member Hoglander has an extensive background in the aviation industry. He flew as a Captain for Trans World Airline (TWA) and was rated to fly Boeing 707, 727, and 747's in his 28 year career with TWA. Additionally, while with TWA, he was elected Master Chairman of TWA's Master Executive Council. He was also elected Executive Vice-President of the Air Line Pilots Association. After leaving TWA, Mr. Hoglander was named Aviation Labor Representative to the United States Bi-Lateral Negotiating Team by then Secretary of State James Baker.

Member Hoglander is a decorated, retired member of the United States Air Force. He enlisted in the Air Force and served as a gunner in a B-29 in the Korean War. Upon his return, with help from the GI bill, he earned his undergraduate degree and a commission in the US Air Force. He served with distinction in multiple active duty assignments. After leaving the Air Force, Mr. Hoglander joined the Massachusetts Air National Guard and qualified to fly Jet Fighters. He retired as a Lieutenant Colonel.

Mr. Hoglander graduated from Suffolk University Law School, became a member of the Florida Bar, and serves his community in a variety of volunteer positions.

Member Hoglander and his wife Judith reside in Magnolia, Massachusetts. They have six grown children and twelve grandchildren.





## **READ VAN DE WATER**

Member

Read Van de Water, a Member of the National Mediation Board since 2003, also served as Chairman from July 1, 2005, through June 30, 2006. Ms. Van de Water was sworn in as a Board Member on December 11, 2003, after being nominated by President George W. Bush in September, and unanimously confirmed by the United States Senate on December 9, 2003.

Ms. Van de Water served from 2001-2003 as the Assistant Secretary for Aviation and International Affairs at the U.S. Department of Transportation. Previously she served as the legislative counsel for international trade and investment with The Business Roundtable and as legislative counsel and director of government affairs for Northwest Airlines. She also was employed on Capitol Hill as an appropriations associate and legislative assistant to Congressman Tom DeLay (Texas) from 1987-1991.

A native of Charlotte, North Carolina, Ms. Van de Water graduated from the University of the South (Sewanee) in 1986. She received a master's degree from The George Washington University and her J.D. from The Georgetown University Law Center.

Ms. Van de Water is married to Mark Van de Water and they have three children. They reside in Warrenton, Virginia.

## **STAFF DIRECTORS**

### **MARY JOHNSON**

General Counsel, Office of Legal Affairs

Mary L. Johnson is General Counsel of the National Mediation Board. As General Counsel, she serves as the Chief Legal Officer of the agency and manages the Board's representation program and a legal program which includes litigation. In this role, Ms. Johnson provides legal advice to the Board Members and agency staff. In addition, she ensures compliance with the Freedom of Information Act, Government in the Sunshine Act, and other statutes.

Several months prior to her becoming General Counsel on December 15, 2002, Ms. Johnson was appointed Acting Director of the Board's Office of Legal Affairs. She had served as the Board's Litigation Counsel since March, 2000. She has also been the agency's Designated Ethics Official since November 2002, and prior to that, Alternate Designated Ethics Official from 1996. Ms. Johnson joined the National Mediation Board as a Hearing Officer in December 1980, and became a Senior Hearing Officer in 1989.

Ms. Johnson received her Juris Doctor from the University of Connecticut School of Law and her A.B. from Barnard College. She is a member of the Connecticut Bar, and serves on the Executive Board of the Association of Labor Relations Agencies, a consortium of federal, state, and Canadian labor relations agencies. Ms. Johnson is also public co-chair of the Railroad and Airline Labor Committee of the Labor and Employment Law Section of the American Bar Association.

### **LARRY GIBBONS**

Director, Office of Mediation Services

Larry Gibbons joined the Board in September, 1997, as a Senior Mediator. Currently, Mr. Gibbons is the Director of Mediation and has overall responsibility for the administration and management of mediation cases in the airline and railroad industries.

Mr. Gibbons brought to the Board 25 years of experience in personnel and labor relations, practicing under both the NLRA and RLA. Immediately prior to joining the NMB, he

headed Human Resources and Labor Relations with ABX Air, Inc. (Airborne Express) for 12 years and for two years was an independent labor relations consultant. He is a past President and Member of the AIRCON Executive Board.

Mr. Gibbons was also involved in community activities, including serving on a Board of Directors for the United Way and an Adult Rehabilitation Workshop.

Mr. Gibbons earned a Bachelor of Science degree in Journalism from Ohio University, and he served as an officer in the United States Army.

### **DANIEL RAINEY**

Director, Office of Alternative Dispute Resolution Services

Daniel Rainey is the Director of the Office of Alternative Dispute Resolution Services (ADRS) for the National Mediation Board, and he is the agency's Ombudsman. He joined the NMB's staff in April, 2001.

As Director, ADRS, he is responsible for a range of programs and projects involving cooperation with and support for the Board and the other departments within the NMB.

He directs the NMB's alternative dispute resolution (ADR) program, which includes: 1) an ongoing training program offering courses in Facilitated Problem Solving and Grievance Mediation; 2) specialized training in topics such as Teambuilding and System Boards of Adjustment; 3) third party work in grievance mediation, interest-based contract negotiation, and group facilitation; and 4) Online Dispute Resolution (ODR). The ODR program includes the use of technology for contract negotiations, grievance mediation, arbitration hearings, and other work with parties in the airline and railroad industries. He is a member of a research team working under a National Science Foundation grant designed to develop information about process modeling and the impact of ODR tools in mediation.

He also has administrative responsibility for the NMB's research program, public information/public affairs program, and documents and records management program, and he is responsible for supervision and direction of the Board's information technology (IT) contractors and the programs they manage and implement.

Immediately prior to coming to the NMB, he was the owner/president of a consulting firm specializing in conflict management and conflict intervention. From 1978 through 1990, he was a faculty member at George Mason University in Fairfax, Virginia.

He is a member of the Association for Conflict Resolution (ACR), the Virginia Association for Conflict Resolution (VACR), and the Association of Labor Relations Agencies (ALRA). For ACR, he is co-Chair of the ODR Section, and he is co-Chair of the ALRA Technology Committee. He is a member of InternetBar.org, an online dispute resolution organization addressing issues of justice involving cyber-law and cyber-transactions; he is a member of the

planning committee for the United Nations Fifth ODR Conference (2007); and he is a Fellow of the Center for Information Technology and Dispute Resolution (CITDR) at the University of Massachusetts at Amherst. He is an adjunct faculty member at the University of Massachusetts at Amherst and at Southern Methodist University.

### **ROLAND WATKINS**

Director, Office of Arbitration Services

Roland Watkins joined the National Mediation Board in February, 1980. During his career at the Board, he has been a Senior Hearing Officer and legal counsel. He has also served as counsel/special assistant to numerous presidential emergency boards and congressional advisory boards.

Currently, Mr. Watkins serves as the Director of the Arbitration Department, where he is responsible for all aspects of grievance and interest arbitration in the airline and railroad industries. These responsibilities include administering railroad public law boards, special boards of adjustment and arbitration boards. He serves as the Administrator for the National Railroad Adjustment Board which is located in Chicago, Illinois.

Mr. Watkins received his B.A. degree in Economics from Lafayette College located in Easton, Pennsylvania, and his Juris Doctor from Cornell Law School in Ithaca, New York. He is a member of the Railroad and Airline Labor Committee of the Labor and Employment Law Section of the American Bar Association.

### **JUNE KING**

Director, Office of Administration

June D.W. King is the Director of the Office of Administration. She joined the National Mediation Board in November, 1995. In this role, Mrs. King has responsibility for the Board's administrative management functions, which include strategic planning and budgeting; accounting and finance; human resources management; procurement and contracting; and internal audit and evaluation. She also is the agency's Chief Information Officer with direct authority for the policies and practices of the Board's Information Technology program.

Mrs. King is the agency's principal official to all the Small Agency councils in the areas of administration and human resources. She is also a member of the Small Agency Executive Committee and the Chief Information Officers' Advisory Committee.

Prior to joining the NMB, Mrs. King served as a Budget Analyst and Acting Director of White House Administration, Executive Office of The President, where she was directly responsible for all administrative functions at the White House.

Mrs. King earned a Bachelor degree in Business Administration with a concentration in Accounting from the University of the District of Columbia.

# NMB Directory

## NMB BOARD

Edward J. Fitzmaurice, Jr.  
*Chairman*  
Anne Woodson  
*Confidential Assistant*

Harry R. Hoglander  
*Member*  
John Looney  
*Confidential Assistant*

Read Van de Water<sup>1</sup>  
*Member*  
Sarah Williams  
*Confidential Assistant*

## LEGAL AFFAIRS

Mary Johnson  
*General Counsel*  
Maria-Kate Dowling  
*Associate General Counsel*

Cristina Bonaca  
*Counsel*  
Kendrah Davis  
*Counsel*  
Susanna Fisher  
*Counsel*  
Norman Graber  
*Counsel*  
Eileen Hennessey  
*Counsel*

Libby Angelopoulos  
*Representation Coordinator*  
Judy Ferni  
*Freedom of Information Officer/*  
*Legal Researcher*  
Robin Stein  
*Paralegal Specialist*

## MEDIATION SERVICES

Larry Gibbons  
*Director*  
Eric Weems  
*Paralegal Specialist*  
Valeta Hill-Rawls  
*Mediation Assistant*

Les Parmelee  
*Senior Mediator*  
Terri Brown  
*Mediator*  
Ernie DuBester  
*Mediator*  
R.A. "Dick" Hanusz  
*Mediator*  
Zachery Jones  
*Mediator*  
Jack Kane  
*Mediator*

Patricia Sims  
*Senior Mediator*  
Denise Hedges  
*Mediator*  
John Livingood  
*Mediator*  
Anthony "Mike" Tosi  
*Mediator*

## ALTERNATIVE DISPUTE RESOLUTION SERVICES

Daniel Rainey  
*Director*  
Linda Puchala  
*Senior Mediator (ADR)*

Rachel Barbour  
*ADR Specialist*  
Anita Bonds  
*Records Management Officer*  
Donald West  
*Public Information Officer*

Michael Wolf  
*Counsel (Dispute*  
*Resolution Technologies)*

Eugene Ajayi  
*IT Administrator (Contractor)*  
Jessica Smith  
*Intern*

## ARBITRATION SERVICES

Roland Watkins  
*Director*  
Carol Conrad  
*Supervisory Program*  
*Management Specialist*

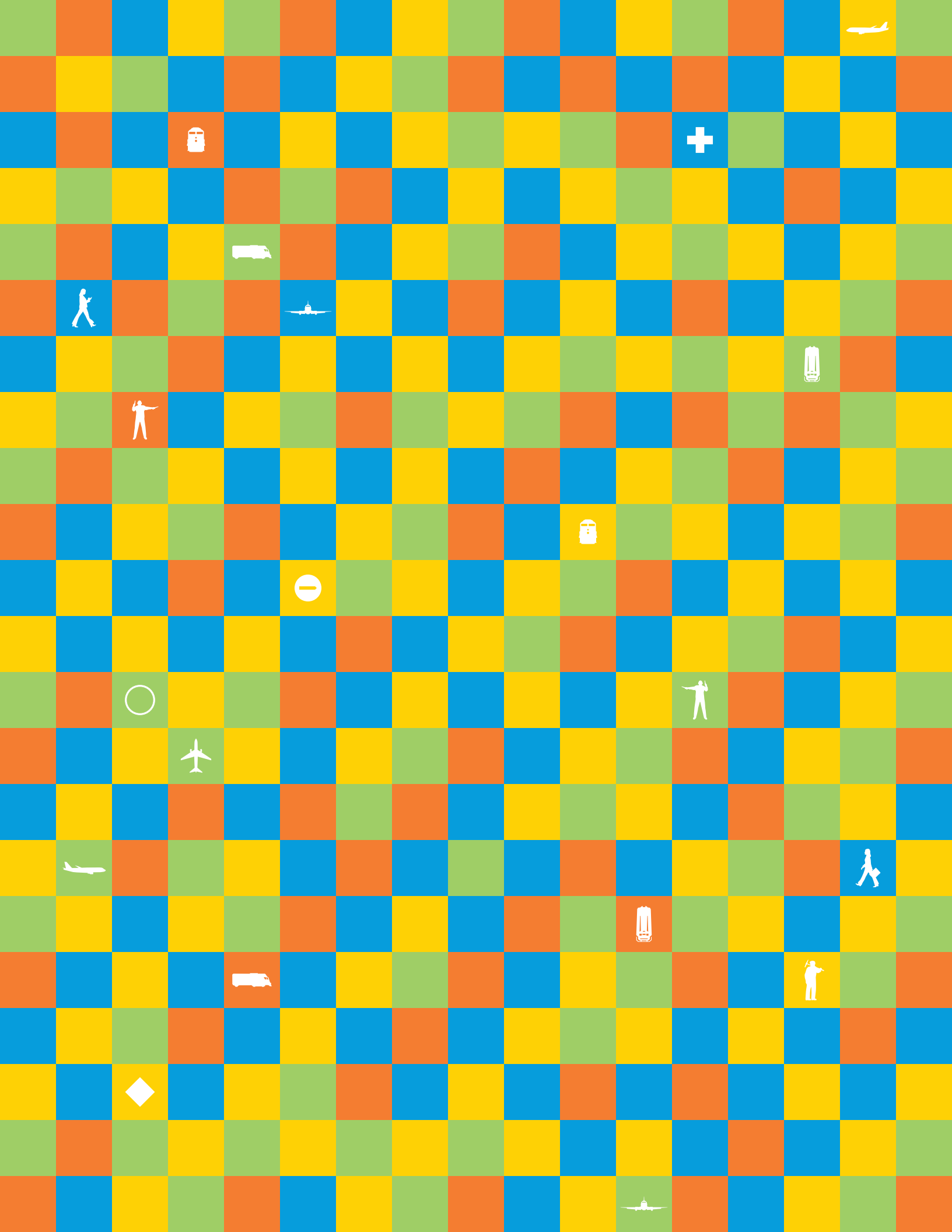
Kimberly Beaubien  
*Program Management Assistant*  
Linda Gathings  
*Administrative Support Assistant*  
Amber Holmes  
*Paralegal Specialist*  
Carolyn Washington  
*Program Management Assistant*

## ADMINISTRATION

June D.W. King  
*Director*  
Denise Murdock  
*Administrative Officer*

Cynthia Carver  
*Accountant*  
Bruce Conward  
*Support Services Assistant*  
Florine Kellogg  
*Administrative Support Assistant*  
Sharon Matthews  
*Voucher Examining Clerk*  
Samantha Williams  
*Support Services Specialist*

<sup>1</sup> Served as Chairman from July 1, 2005 through June 30, 2006.



# **Management Discussion and Analysis**

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## **Mediation**

**In FY 2006, the NMB's mediation staff again delivered outstanding service to the airline and railroad industries, and to the public. In an environment of heavy economic losses and multiple bankruptcies in the airline industry, NMB mediators were challenged to assist the parties in reaching settlements. As the customer service and performance standards show, FY 2006 was another very successful year in meeting Agency goals. More importantly, the Board's overall performance reinforced the stability of the mediation process and the reliability of its multi-faceted approach to labor-management disputes.**





To achieve the NMB's overriding responsibility to manage mediation cases effectively, the Agency's performance under its customer service goals may vary during the fiscal year. In order to attain voluntary agreements without work stoppages, the Agency does not blindly adhere to the constraints of its customer service goals. The NMB may vary these goals in those cases where parties' tactics are inconsistent with the RLA's direction to make all reasonable efforts to make and maintain agreements or where the complexity of a case may dictate relaxing specific time lines. For example, the NMB may delay making a determination on releasing a case from mediation after 365 calendar days if one of the parties entered mediation with an excessive number of open proposals and was slow to make changes in the proposals and move toward a compromise; or it may temporarily recess mediation in a case to give the parties an opportunity to re-evaluate their positions.

The Mediation case-intake rate for FY 2006 was 36 percent below FY 2005. The FY 2006 Mediation case-closure rate was 23 percent below FY 2005 and well below the five-year average. The case closure rate was affected in a large part by the decline in new cases in FY 2006; protracted concessionary negotiations; and due to budget constraints, the agency being unable to replace two mediators who left the Agency at the end of FY 2005. The Agency, however, substantially met or exceeded its customer service goals during FY 2006.

The overall outlook for case activity in the coming fiscal years is for an increase in mediation cases based upon the known contract amendable dates and new Representation cases in FY 2006.



## MEDIATION CASES\*



\*This year Mediation and ADR cases are displayed separately.  
See the ADR section of this Annual Report for the ADR chart.

## HIGHLIGHTS DURING FISCAL YEAR 2006

### Cooling-off Periods and Self-help Activity.

A tentative agreement was reached on October 9, 2006 between Northwest and its mechanics represented by the Aircraft Mechanic's Fraternal Association (AMFA), which had been on Strike since August of 2005.

Also in the airline industry, World Airlines and their pilots, represented by the International Brotherhood of Teamsters (IBT) entered a cooling off period which ended on January 28, 2006 without settlement, and the IBT initiated a strike. On February 5, 2006, with Board assistance, the parties reached a tentative agreement that was subsequently ratified.

Finally, in the airline industry, on July 28, 2006, the Board released Petroleum Helicopter Incorporated (PHI) and their pilots represented by the Office Professional Employees International Union (OPEIU) into a 30-day cooling off period that ended at 12:01 a.m. on August 28, 2006. The OPEIU exercised self help beginning on September 20, 2006.

On the railroad side, the Southeast Pennsylvania Transit Authority (SEPTA) and the Brotherhood of Locomotive Engineers/Trainmen (BLET) entered into a cooling off period and did not reach agreement. The President established a Presidential Emergency Board under Section 159A of the Railway labor Act. Before the PEB Members issued its report to the President, the parties reached a voluntary tentative agreement on July 26, 2006, which was subsequently ratified.

**Settlements.** During FY 2006, all mediated cases, with the exception of two airline case noted above, were closed by voluntary agreement without a strike or other legal self-help. While the number of new mediation cases docketed and handled by Board mediators were lower than FY 2005, these cases continue to be extremely complex. Several mediation cases involved airlines that filed for bankruptcy protection, which provided an additional challenge to the mediators. Thus, the Agency's actual mediation and facilitation activities remained at an intense level, challenging the Board's limited resources.

The list of airline carriers and organizations, which reached agreements with Agency assistance, includes: Northwest and the International Association of Machinists (IAM); Alaska Airlines and the IAM and AFA-CWA;

World Airways and the Transportation Workers Union (TWU); Net Jets and the IBT, both pilots and flight attendants; Horizon and the Aircraft Mechanics Fraternal Association (AMFA); Great Lakes Aviation and the IBT; American Eagle and AFA-CWA; Air Methods and OPEIU; Sun Country and the Airline Pilots Association (ALPA); and United Parcel Service and its pilots represented by the Independent Pilot's Association (IPA). A tentative agreement reached between Federal Express and ALPA is pending ratification.

In the railroad industry, the NMB helped the parties reach agreements in the following cases: York Railway and the Brotherhood of Maintenance Of Way Employees (BMWE); Florida East Coast Railroad and the BMWE; Indiana Harbor Belt Railroad and the United Transportation Union (UTU); Long Island Railroad and the BLET; and the R N & T Railroad and the United Steel Workers of America (USWA).

**Pending Cases.** At the present time, several significant airline cases remain in mediation including NWA/AFA-CWA, ASA/ALPA, Mesaba/AMFA, ASA/AFA-CWA, Mesaba/AFA-CWA, and Air Tran/NPA. All of these cases are proving to be extremely difficult given the current collective bargaining environment.

Currently on the railroad side, the National Carriers' Conference Committee (NCCC) is bargaining with its unions, and two groups are currently in mediation: the UTU and a coalition of seven Unions. AMTRAK continues in mediation with the BMWE, Sheet Metal Workers International Union (SMWIA), International Brotherhood of Boilermakers, Blacksmiths (IBB&B), International Brotherhood of Electrical Workers (IBEW), Brotherhood of Railroad Signalmen (BRS), Joint Council of Carmen (JCC), American Train Dispatchers Association (ATDA), Fraternal Order of Police (FOP), National Conference of Fireman & Oilers (NCFO), International Association of Machinists (IAM) and United Transportation Union (UTU). While AMTRAK settlements traditionally follow those set by the NCCC, its current funding situation is causing some unique problems in reaching settlements. Several Short Line and Commuter Railroads are also in mediation including Metro North, Wisconsin Central, Southeastern Pennsylvania Transportation Authority, Port Authority Trans Hudson, and New Jersey Transit.





## **Alternative Dispute Resolution**

**In addition to a variety of programs generally supporting other departments of the NMB, ADR Services undertakes dispute resolution efforts that encourage the parties to resolve grievances and bargaining disputes in a cooperative environment. In FY 2006, ADRS continued to work with each of the other NMB departments to support the goals of the agency. At the National Mediation Board, Alternative Dispute Resolution (ADR) encompasses a wide range of voluntary programs and services designed to resolve disputes outside of the NMB's statutorily mandated mediation ("A-case" contract negotiations), representation, and arbitration efforts.**



The staff of the Office of Alternative Dispute Resolution Services (ADRS) has responsibility for:

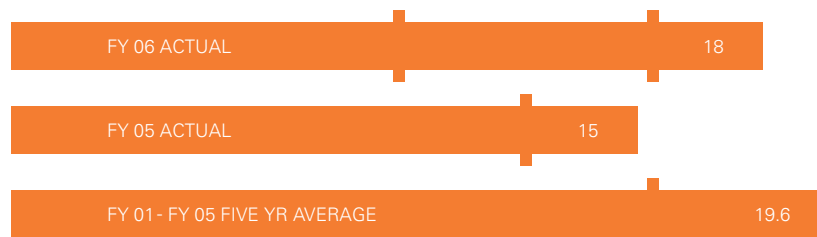
- Design and implementation of ongoing training in facilitated problem solving, grievance mediation, and interest based bargaining;
- Design and implementation of specialized training in areas such as System Boards of Adjustment and Teambuilding;
- Third party case work in grievance mediation,

facilitated problem solving, interest based contract negotiations, and A-case mediation;

- Online Dispute Resolution;
- Online Arbitration;
- Maintaining relationships with the ADR community at large;
- Records Management;
- Integration of Information Technology into NMB programs and business practices; and
- Public Information and public communication.

## ADR CASES\*

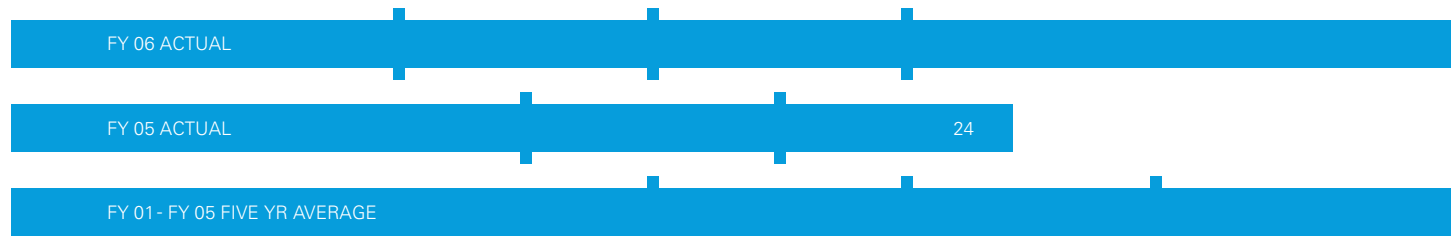
CASES PENDING START



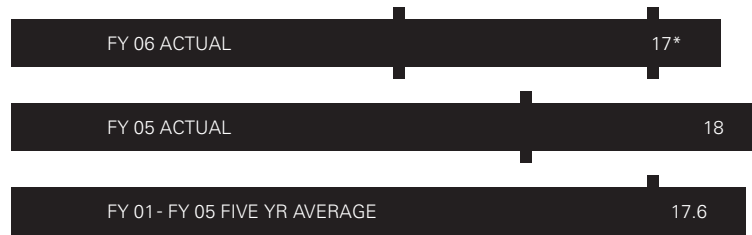
CASES DOCKETED



CASES CLOSED



CASES PENDING END



\*This year Mediation and ADR cases are displayed separately in the agency's Annual Report. See the Mediation section for the mediation chart. The caseload counts for ADR include training cases (T and T-ODR), facilitation (F and F-ODR), grievance mediation (GM and GM-ODR), and starting in FY 2006, Outreach and Promotion (OP and OP-ODR) cases.

## HIGHLIGHTS DURING FISCAL YEAR 2006

**Ongoing Training.** During FY 2006, ADRS continued to refine and update its standard training, including Grievance Mediation training, Interest-Based Negotiation training, and Facilitated Problem Solving training. Normally, training offered by the NMB is done immediately before a grievance mediation or facilitation case is opened, with participation from the individuals who will be at the table for the parties, so that everyone involved in the subsequent discussions will have a common perspective on the ADR process.

Eleven (11) training cases were opened during FY 2006, involving a wide range of carriers, including: Airborne Express, American Airlines, Alabama State Docks Railroad, American Eagle Airlines, Chautauqua Airlines, Express Jet, Horizon Airlines, NetJets, PSA, Norfolk Southern Railroad, and USAirways. Unions involved in training during FY 2006 included: IBT, TWU, AFA-CWA, ALPA, ATDA, and the UTU.

**Special Training.** In addition to the ongoing training programs offered by the NMB, special training requested by the parties, including team building for labor/management bargaining team members, was prepared and delivered by ADRS staff. A new course, System Boards of Adjustment, was offered to two sets of parties in the airline industry (NetJets and Express Jet). In the future, SBA training may become part of the NMB's ongoing training curriculum.

**F, GM, and A Case Work.** During FY 2006, ADRS staff members were engaged in direct delivery of dispute resolution services as facilitators in grievance mediation (GM cases), as facilitators in interest-based contract negotiations and dispute resolution efforts (F cases), and as mediators in Section 6 negotiations (A cases). In addition to training and facilitation services associated with Section 6 collective bargaining, the NMB provided training and grievance mediation services which resulted in a reduction of the number of cases going to arbitration. The carriers involved in grievance mediation and facilitation include: Airborne Express, Allegheny Airlines, American Airlines, ASTAR, Chautauqua Airlines, Continental Airlines, CSXT

68\*

37.6

69\*

39.6

Railroad, Horizon Airlines, Independence Airlines, Mesa Airlines, United Airlines, UPS and US Airways. Unions involved in grievance mediation and facilitation include: AFA, APA, ALPA, ATDA, BMW, IAM, IBT, IFPTE, and IPA.

**ODR.** During FY 2006 the NMB continued its partnership with the University of Massachusetts at Amherst under a research grant awarded by the National Science Foundation. The grant was awarded to study the impact of Online Dispute Resolution (ODR) tools in grievance mediation and other dispute resolution venues. The NMB and U-Mass were involved in initial testing of prototype software at the end of FY 2005, and during FY 2006, experimental software (Storm) was produced and tested in partnership with airline and railroad parties.

During the past year, online tools such as Storm have been used in contract negotiation, drafting of agreements, preparation for face-to-face negotiations, and agenda setting for a variety of carriers and organizations. Alabama State Docks Railroad, CSXT Railroad, the Norfolk Southern Railroad, the UTU, and the ATDA have all been involved in cases using ODR technology as part of the overall dispute resolution process.

In addition to the work with UMass and the use of online systems by parties in the airline and railroad industries, the NMB has become the recognized leader among government agencies applying technology to dispute resolution, both in the United States and internationally. During FY 2006, the ADRS Director delivered keynote addresses at three conferences on ODR and The e-Society (in Washington, DC, Toledo, Ohio, and Dublin, Ireland). In addition, the ADRS Director was a featured speaker at the first international ODR course, sponsored by the Cairo Regional Centre for Commercial Arbitration, and at the Fourth UN Conference on ODR, held in Cairo, Egypt. During FY 2006, ADRS worked with or made ODR presentations to the ABA Section of Dispute Resolution, the Association for Conflict Resolution, and the National Institutes of Health.

**Online Arbitration.** One significant area of the NMB's ODR program that began to develop during FY 2006 is the application of web-based video and document sharing technology to arbitration hearings. Throughout the year, the NMB maintained a cooperative agreement with the NLRB to allow access by NMB parties and arbitrators to a nationwide network of high-quality, IP-based video teleconference facilities. More importantly, however, the NMB continued to develop and use its own web-based video and document sharing capabilities.

During FY 2006 online arbitration sessions were held with Union Railroad, Kansas City Southern Railroad, PATH, CSXT, AMTRAK, New Jersey Transit, the UTU, U.S. Postal Service, and RITU. A total of 33 informational sessions (OP-ODR cases) were held during the year to introduce these and other parties to the online arbitration project.

Participants in the online arbitration sessions, including two sessions conducted live in front of union audiences of 600-800 members, responded to an online user survey regarding their experience. Of those responding, over 80 percent of the advocates indicated that they could present their cases as effectively using the online application as they could in person. Three of the four arbitrators responded that they could conduct the sessions as well online as in person, and 70 percent of the respondents said that they would unconditionally recommend using the online application to others.

Continued use of online arbitration tools in FY 2007 is expected to significantly and positively impact the allocation and use of funds for arbitration hearings, decision writing, and arbitrator travel.

**Liaison with the ADR Community.** The NMB continued to use various forums, including on-property presentations, to introduce ADR to the parties, including presentations before the following groups: NetJets/IBT, Continental, UTU, IBEW, AirCon, Genesee and Wyoming RR, Association for Conflict Resolution, CSXT, The e-Society, and the U.S. State Department.

As it has in years past, the NMB continued to be an active member of the Inter-Agency ADR Working Group Steering Committee, a group consisting of representatives from US Government agencies with ADR programs.

**Records Management.** During FY 2006, the NMB became the first US Government agency to have in place an all-electronic records schedule approved by the National Archives and Records Administration (NARA). As the first paperless agency in the US government, the NMB continues to set precedent and establish procedures that will be the *de facto* standards for other agencies as they move into electronic records management.

The core of the NMB records program is its Corporate Memory, a web-based archive and records system that allows for full redundancy and backup, and the ability for agency staff to access agency records and work from any location that has Internet access.





**Information Technology.** During FY 2006, the NMB retained a new information technology contractor, L-3 Communications. The new contractor's first tasks were to oversee the renewal of the agency's computer network and to assist ADRS in furthering the integration of technology into the NMB's business processes.

**Public Information.** ADRS continued in FY 2006 to respond in a timely manner to inquiries from the public, the parties, and the Congress. The basic performance goal for phone-call responses is one work day, and the goal for written correspondence is one work week. For the entire fiscal year, ADRS met its goals for public calls (430 calls) 93 percent of the time, for press calls (72 calls) 99 percent of the time, and for written correspondence 97 percent of the time.

Near the end of FY 2006, ADRS received information from UMass gathered through an online user survey of the NMB web site ([www.nmb.gov](http://www.nmb.gov)). During the first part of FY 2007, ADRS will evaluate the data from the online survey and make changes to the NMB web site to reflect improvements suggested by the users.

During FY 2006, ADRS continued to build and improve the public archive of information available through the NMB Knowledge Store. Currently, the NMB Knowledge Store contains approximately 100,000 documents in an easily searchable format, including arbitration awards, representation decisions, annual reports, PEB reports, industry labor contracts, and union constitutions and by-laws. In FY 2007 the NMB will continue to fill in gaps in the collection, with the goal of fully documenting the Board's work since its inception in 1934. Also in FY 2007, ADRS will further develop the meta-data associated with the collection, making searches for information faster and more targeted.



## **Presidential Emergency Boards**

**When the NMB determines that a dispute cannot be resolved in mediation, the NMB proffers interest arbitration to the parties. Either labor or management may refuse the proffer and, after a 30-day cooling-off period, engage in a strike, implement new contract terms, or engage in other types of economic self-help, unless a Presidential Emergency Board is established.**



If the NMB determines, pursuant to Section 160 of the RLA, that a dispute threatens substantially to interrupt interstate commerce to a degree that will deprive any section of the country of essential transportation service, the NMB notifies the President. The President may, at his discretion, establish a Presidential Emergency Board (PEB) to investigate and report respecting such dispute.

Status-quo conditions must be maintained throughout the period that the PEB is impaneled and for 30 days following the PEB report to the President. If no agreement is reached, and there is no intervention by Congress, the parties are free to engage in self help 30 days after the PEB report to the President.

Apart from the emergency board procedures provided by Section 160, Section 159A of the RLA provides special multi-step emergency procedures for unresolved disputes affecting publicly funded and operated commuter railroads and its employees. If the mediation procedures are exhausted, the parties to the dispute or the Governor of any state where the railroad operates may request that the President establish a PEB. The President is required to establish such a board if requested. If no settlement is reached within 60 days following the creation of the PEB, the NMB is required to conduct a public hearing on the dispute. If there is no settlement within 120 days after the creation of the PEB, any party or the Governor of any affected state, may request a second, final-offer PEB. No self help is permitted pending the exhaustion of these emergency procedures.

During fiscal year 2006, one PEB was created: a Section 159A Board, 239, which is discussed below.

### **HIGHLIGHT OF FISCAL YEAR 2006**

On June 20, 2006, the Southeastern Pennsylvania Transportation Authority (SEPTA) requested that the President establish a PEB to investigate and issue a report and recommendations regarding its dispute with the Brotherhood of Locomotive Engineers and Trainmen (BLET). Effective July 8, 2006, the President created PEB 239 and appointed Kirk Van Tine as Chair, Robert E. Peterson and Peter W. Tredick as Members. The Board held meetings and hearings with the parties on July 19-21, 2006. On July 28, 2006 the parties notified the Board that they had entered into the tentative collective bargaining agreement subject to the ratification of both parties and requested that the Board seek an extension of 60 days for PEB 239 to submit its report to the President. On August 3, 2006, the President granted the extension. On August 22, 2006, the Brotherhood of Locomotive Engineers and Trainmen voted to ratify the agreement. The Southeastern Pennsylvania Transportation Authority's Board of Directors ratified the agreement on September 14, 2006. The Board submitted its Report to the White House on September 15, 2006, communicating that the parties' agreement had been ratified and the dispute resolved.





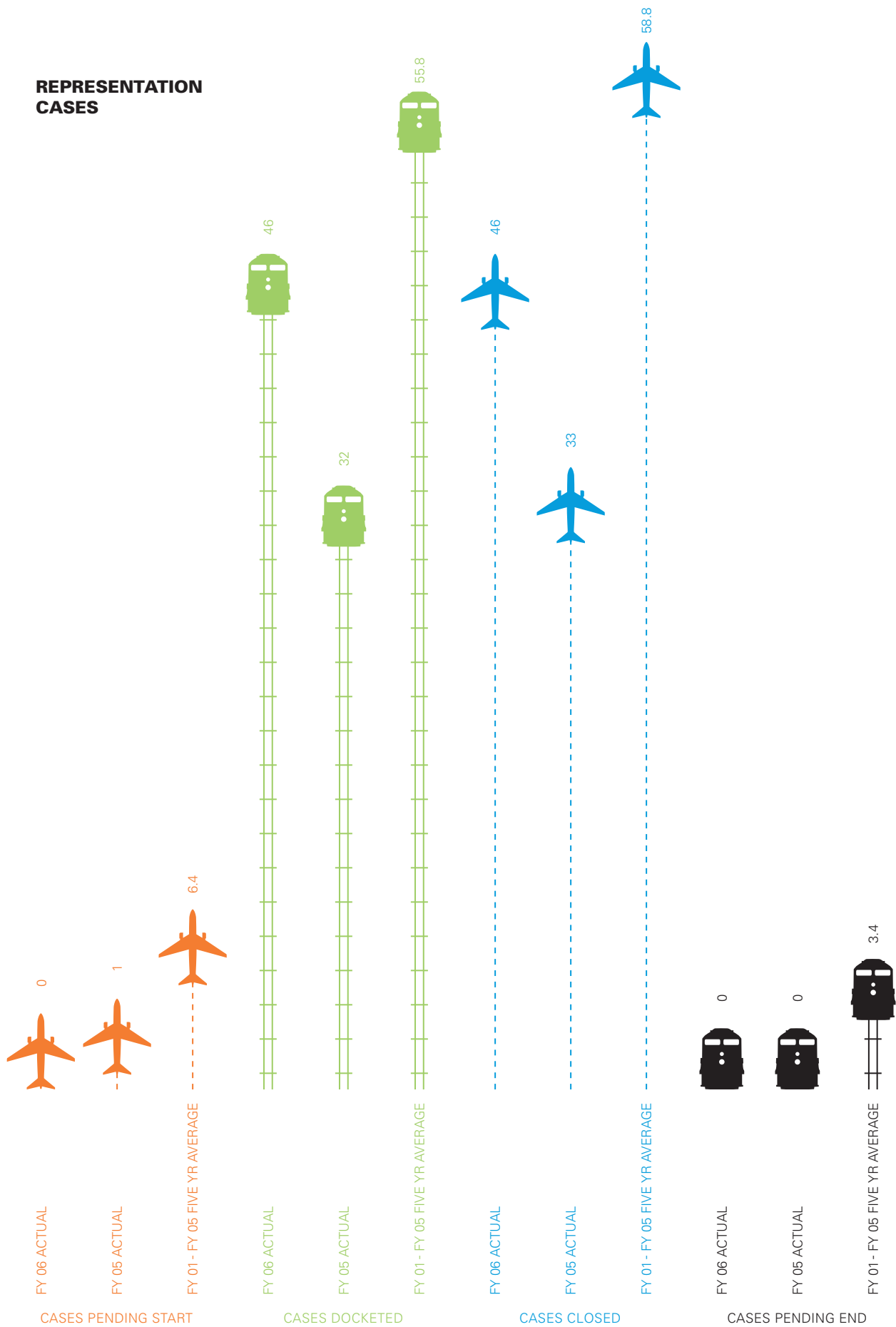


## **Representation**

**During FY 2006, the NMB's Office of Legal Affairs (OLA) continued to operate at a high level of quality and efficiency. As a review of customer service and performance standards will attest, the Agency's Representation program is in a state of constant improvement, delivering outstanding services to the parties and the public. The OLA staff closed and docketed an equal number of cases during this year (46 closed; 46 docketed). As a result, the Agency does not have any representation cases pending at the end of FY 2006.**



REPRESENTATION  
CASES





Although the number of representation cases filed during FY 2006 was lower than in previous years, the OLA staff had a higher than usual volume of non-representation legal work. We estimate that 50-55 representation cases will be investigated and resolved in each of the next several fiscal years.

The Office of Legal Affairs' refinement of the Telephone Electronic Voting (TEV) system continued to allow for easier administration of representation elections. Voter confidentiality and ballot integrity is guaranteed by a system of dual passwords for each voter, and by a state-of-the-art system of encryption, firewall protection, and physical separation of servers by the Agency's TEV contractor. The contractor has extensive experience in the TEV field, and is the contractor for numerous Fortune 500 companies which use TEV services for stockholder votes and other sensitive information-gathering purposes.

In addition to the current telephone-based system, the NMB is evaluating the potential of also using an Internet-based voting feature. In FY 2006, the Office of Legal Affairs analyzed the results of tests it conducted on such an internet-based voting system. During FY 2007, implementation will continue to be explored.

## **HIGHLIGHTS DURING FISCAL YEAR 2006**

Under the RLA, the selection of employee representatives for collective bargaining is accomplished on a system wide basis. Due to this requirement and the employment patterns in the airline and railroad industries, the Agency's representation cases frequently involve numerous operating stations across the nation. In many instances, labor and management raise substantial issues relating to the composition of the electorate, jurisdictional challenges, allegations of election interference, and other complex matters which require careful investigations and ruling by the NMB.

Representation disputes involving large numbers of employees generally are more publicly visible than cases involving a small number of employees. However, all cases require and receive neutral and professional investigations by the Agency. The NMB ensures that the employees' choices regarding representation are made without interference, influence or coercion. The case summaries that follow are examples of the varied representation matters which were investigated by the NMB during FY 2006.

### **GoJet Airlines, LLC / Trans States Airlines Inc. / International Brotherhood of Teamsters/ Air Line Pilots Association**

The International Brotherhood of Teamsters (IBT) filed an application alleging a representation dispute involving the Pilots on GoJet. The following day the Air Line Pilots Association (ALPA) filed an application for a single carrier determination involving GoJet and Trans States Airlines (TSA). ALPA is the certified collective bargaining representative of Pilots on TSA. As the TSA Pilot group was substantially larger than the GoJet Pilot group, ALPA contended that its existing certification should be extended to cover the GoJet Pilot group within a single transportation system. ALPA argued that the wholly-owned affiliates of Trans States Holdings, Inc. (TSH), TSA and GoJet, constitute a single transportation system for representation purposes for the craft or class of Pilots.

GoJet and TSA filed a joint position statement urging the Board to deny ALPA's request for the single transportation system. The Carriers stated that GoJet was created as a separate entity to operate 70 seat CRJ-700 aircraft that TSA is prohibited from flying. TSA has an Air Services Agreement with American Airlines (American) that prohibits it from flying aircraft with more than 50 seats, because of a scope clause provision in American's collective bargaining agreement (CBA) with the Allied Pilots Association (APA). Thus, the Carriers stated: "Holdings created GoJet as a way to keep pace with its competitors and expand its business, while simultaneously ensuring that TSA remains compliant with its American Air Services Agreement." The IBT agreed with the position of TSA and GoJet, stating that despite the common ownership by TSH, there is no integration of operations or exercise of common control by the Carriers that would support a single transportation system finding.

The Board found that TSA and GoJet were not operating as a single transportation system and dismissed ALPA's application. The Board noted that: each Carrier has its own management team that is in charge of day-to-day operations; that the operations of the two carriers are separate; and the carriers are held out to the government and the public as separate transportation systems. The Board stated that while individuals in GoJet's management team previously worked for TSA, all of those individuals left their employment with TSA before joining GoJet. The Board also noted that TSA was incorporated

in Missouri while GoJet is an LLC formed in Delaware, and has no Board of Directors. Finally, the Board stated that while TSA and GoJet are commonly owned by TSH for Hulas Kanodia, he has no involvement in the management of either entity, and that such factor alone would not support a finding of common control. The Board therefore processed the IBT's application for a representation election. On February 24, 2006, after an election in which the majority of GoJet Pilots voted for representation, the Board certified the IBT as the collective bargaining representative of GoJet Pilots.

### **US Airways/ America West Airlines/ International Association of Machinists and Aerospace Workers**

On September 30, 2005, the IAM filed applications alleging a representation dispute involving the crafts or classes of Mechanics and Related Employees, and Fleet Service Employees. On October 13, 2005, the IAM filed an application alleging a representation dispute involving the craft or class of Maintenance Training Specialists. The IAM requested the National Mediation Board (Board) to investigate whether US Airways, Inc. (East), and America West Airlines, Inc. (West) (collectively the Carriers), were operating as a single transportation system known as US Airways (US Airways).

At East, the IAM represented Mechanics and Related Employees, Fleet Service Employees, and Maintenance Training Specialists. At West, the Mechanics and Related Employees were represented by the International Brotherhood of Teamsters, Airline Division (IBT). The IBT also represented West's Stock Clerks. The Fleet Service Employees at West were represented by the Transport Workers Union of America (TWU). The Maintenance Instructors were not represented.

The TWU and IBT argued that East and West are not now a single transportation system under the RLA. The Carriers stated that East and West were operating as a single transportation system.

The Board found that East and West were operating as a single transportation system. The Board stated in its decision that "in the approximately three months since the merger, East and West have moved inexorably forward to form a single system." The Board noted that the Carriers had: committed \$300 million to accomplish the transition; relocated the corporate headquarters to Tempe, Arizona; established a single senior management structure; relocated 300-400 management employees from Virginia to Arizona; begun to repaint West's aircraft; begun to implement joint benefit plans; negotiated or commenced negotiating transition agreements with organizations representing employees; scheduled the transition to a single reservations system; trained over 900 Fleet or Passenger Service Employees to be cross-utilized on either East or West flights; combined the labor relations,

human resources, recruiting, finance, corporate communications, marketing and sales, and airport services departments; started the process to select new uniforms for the combined carrier; combined the frequent flyer programs and Club access; made significant changes to routes and schedules; introduced a co-brand to introduce the public to the combined brand, with plans to replace the co-brand with the new US Airways logo; moved East and West to a single counter in 30 of the 37 cities in which the Carriers have overlapping facilities; and begun to remove West signage from domestic stations.

### **Stillwater Central Railroad / Brotherhood of Locomotive Engineers and Trainmen**

On June 23, 2005, the BLET filed an application with the Board alleging a representation dispute involving Stillwater Central's Train and Engine Service Employees. On July 7, 2005, the Board found that a dispute existed and authorized a Telephone Electronic Voting (TEV) election. Less than a majority of eligible voters voted for representation and on August 18, 2005, the Board dismissed the BLET's application. On August 26, 2005, the BLET filed charges of election interference. On September 20, 2005, the Board found that the BLET's allegations stated a prima facie case that the laboratory conditions were tainted and that the Board would conduct further investigation. During December 2005, Board attorneys conducted an on-the-property investigation.

Based upon this investigation, the Board found that the laboratory conditions required for a fair election were tainted. This conclusion was based on the totality of circumstances including: the numerous "one-on-one," mandatory, and group meetings; the conferral of benefits during the laboratory period, including the wage increases granted during the laboratory period to a majority of the Train and Engine Service Employees. However, the Board found that the level of interference was not egregious enough to warrant the use of a *Laker* ballot, which is considered an "extraordinary remedy" and denied BLET's request for a *Laker* ballot. The Board ordered a re-run election using TEV and the Board's standard voting procedures. On April 28, 2006, the Board dismissed the BLET's application because less than a majority of eligible voters voted for representation in the re-run election.

### **Union Pacific Railroad / American Train Dispatchers Association**

On January 6, 2006, the American Train Dispatchers Association (ATDA) filed an application alleging a representation dispute involving the Train Dispatchers of Union Pacific Railroad (UP or Carrier). On January 31, 2006, the Carrier provided a Potential List of Eligible Voters (List). The Board found that a dispute existed and authorized an election with a tally set for March 15, 2006.

The Organization filed challenges to the List. ATDA argued that 14 employees working as Managers of

Central Train Dispatching (MCTDs) were management officials and therefore should be considered ineligible according to the Board's Representation Manual (Manual). The Carrier responded that MCTDs are not management officials and should remain on the List. The Board found that MCTDs did possess some of the indicia of management official status. However, when the scope of their authority was regarded cumulatively, the Board found that there was insufficient evidence to establish that MCTDs were management officials within the meaning of the RLA. Accordingly, MCTDs remained on the List and were eligible to vote.

### **American Eagle Airlines / Transport Workers Union of America**

The Transport Workers Union of America (TWU) filed an application with the Board alleging a representation dispute involving the Ground School Instructors at American Eagle Airlines (Eagle). Eagle opposed the TWU's application. The Carrier urged the Board to dismiss TWU's application, contending that its Ground School Instructors were management officials. The Carrier stated that the Ground School Instructors were management employees who receive pay and benefits of other managers at that level.

The Air Line Pilots Association (ALPA), which represents the craft or class of Pilots at Eagle, also filed position statements with the Board. ALPA requested the Board recognize its right to represent any Eagle Pilots who also serve as Ground School Instructors.

The Board found that Eagle's Ground School Instructors were not management officials and authorized an election. The Board stated that generally it has found Ground Instructors to be either an appropriate craft or class, or part of a larger craft or class of Flight Training employees. The Board also noted that it had considered whether Instructors were management officials in previous cases, and generally concluded that the Instructors were employees eligible for representation.

The Board stated that the job description for Eagle's Ground School Instructors described a number of tasks related to the teaching and training of pilots, but that Eagle's Ground School Instructors were not creating Carrier policy when they developed training materials from an approved syllabus provided to them, and in accordance with Eagle's Approved Training Manual and other Carrier policy. The Board also noted that the Carrier job description for Ground School Instructors did not indicate that these employees have the authority to impose discipline; to authorize or grant overtime; to transfer and/or establish assignments; or to commit Carrier funds. Considering this evidence cumulatively, the Board found that Eagle's Ground School Instructors were not management officials. Since there were no Pilots serving as Eagle Ground School Instructors at the time the application was filed, the Board did not address ALPA's arguments regarding its prospective representation rights. Therefore, the Board found a dispute to exist among Ground School Instructors of American Eagle Airlines and authorized an election with TWU on the ballot. On August 4, 2006, the Board certified the TWU to represent the Ground School Instructors.



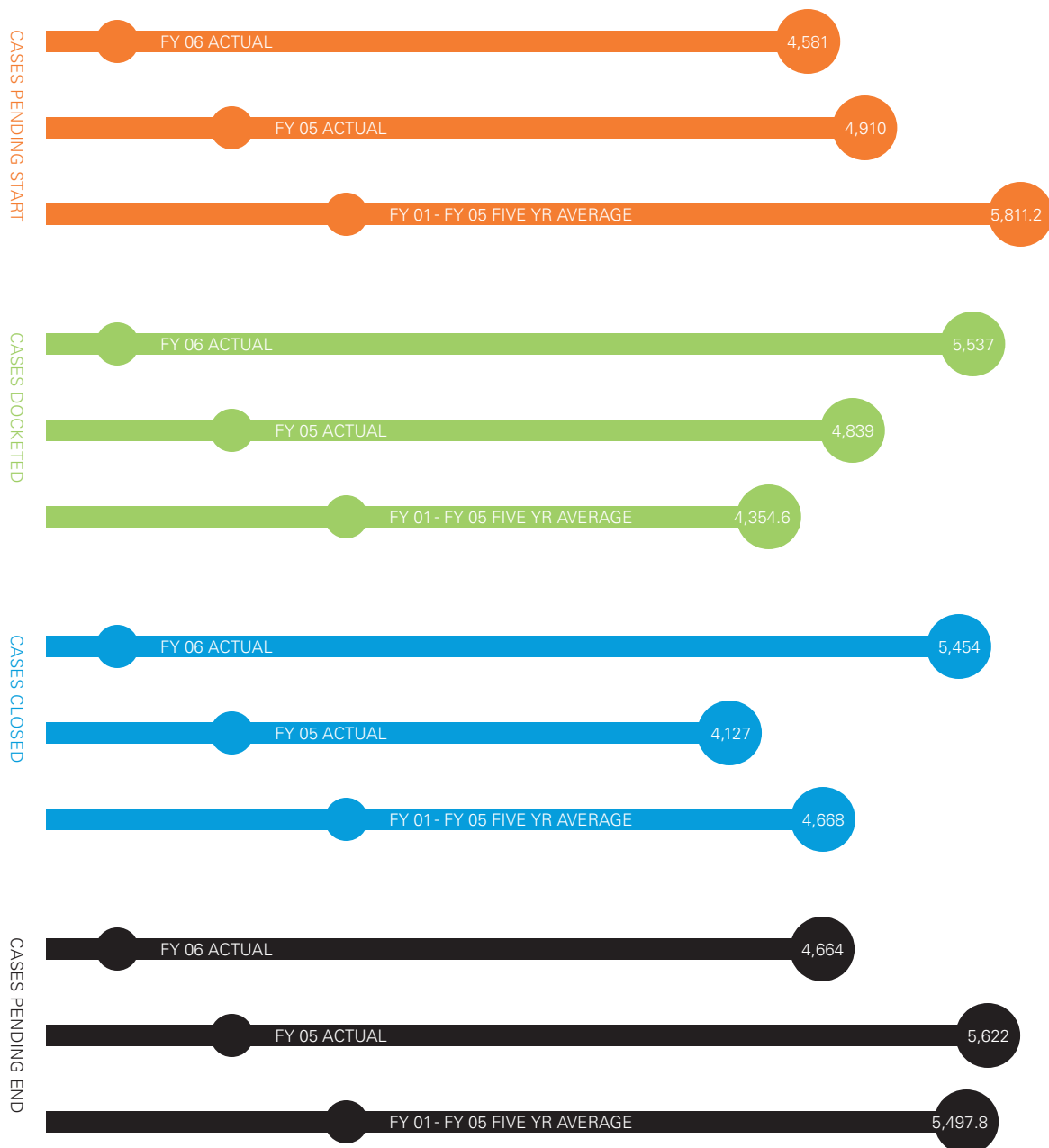


## **Arbitration**

**The NMB Arbitration program continued its efforts to streamline and modernize its operational procedures. The NMB improved its procedures by instituting electronic filings in all phases of the grievance and arbitration process. Documents and records management was modernized with the conversion of all records to an electronic system. The level of grievance activity handled through the NMB Arbitration program increased above the FY 2005 level. During FY 2006, the parties brought an estimated 5,537 cases to arbitration compared to 4,839 cases in FY 2005. In FY 2006, 5,454 cases were closed compared to 4,127 in FY 2005, leaving 4,664 cases pending at the end of the fiscal year.**



## ARBITRATION CASES\*



\*Caseload adjusted based on an annual NMB/parties case audit.



## HIGHLIGHTS DURING FISCAL YEAR 2006

On February 9, 2006, the Agency met with the Section 3 Committee to review its caseload and administrative procedures. The Section 3 Committee is comprised of labor and management representatives from Class I freight railroads and commuter carriers. The NMB reported on its efforts to improve electronic procedures and administrative changes at the NRAB.

During the past year, the NMB continued its actions designed to improve the arbitration of grievances under Section 3 of the Railway Labor Act. The Board had five ambitious goals for this transformation: (1) to ensure that the parties receive timely and outstanding arbitration services from the Board's staff and its contract arbitrators; (2) to ensure that the Board uses e-commerce capabilities to the maximum extent possible; (3) to ensure that Board procedures are improved through a rulemaking process involving public input; (4) to ensure that arbitrators schedule, hear, and decide cases in a timely manner; and (5) to ensure that NMB resources are used wisely and in accordance with Federal regulations and sound accounting practices.

**Annual Case Audit.** In July 2006, the NMB conducted an intensive audit of all cases pending before public law boards and special boards of adjustment. The Agency provided the Class I freight railroads, commuter railroads, regional railroads and all labor organizations representing railroad employees with a list of pending cases on these boards. The NMB asked the parties to report any discrepancies between its records and the Agency's list. The responses resulted in an adjustment in the NMB's arbitration case management system.

**Electronic Submission of Vouchers.** In FY 2006, the NMB modified its procedures on electronic submission of travel vouchers and service payment vouchers by arbitrators. The modifications eliminated the submission of paper and greatly expedited the payment process. Arbitrators were paid in less than three days.

**Alternative Dispute Resolution in the Railroad Industry.** The NMB actively promoted grievance mediation as an alternative means of dealing with grievances in the railroad industry by reaching out to the largest Class I freight carriers and the labor organizations. During FY 2006, the Board attended several UTU and BLET regional meetings of general chairmen to promote grievance mediation as a means of resolving disputes.

**Increasing Arbitrator Productivity.** The NMB continued its efforts to increase arbitrator productivity through rigorous enforcement of the six-month rule: arbitrators, who have not issued a decision within six months of a hearing, are contacted monthly and encouraged to issue those decisions. Through these efforts, the Agency met this performance goal in approximately 87 percent of the cases on public law boards and special boards of adjustment and 74 percent of the cases at the NRAB.

The Agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. The NMB also used the website to keep the parties and the public informed regarding Section 3 activities. Arbitrators, parties, and the public use the website to obtain information and forms instantaneously, and the availability of information on the website reduces the staff time which ordinarily would be required to respond to questions and requests.

This year the NMB placed its Roster of Arbitrators on the NMB web site. It is located on the arbitration menu. The agency will place related resumes on the Web site during the next fiscal year.

**Rulemaking.** In FY 2004, the NMB proposed amending its general administrative rules to improve and expedite the administration of arbitration programs. The principal purpose of the proposed rule is to provide a time frame for the resolution of labor grievances. Under the proposed rule, decisions on grievances will normally have to be issued within one year of the filing of the grievances. The proposed rule clarifies the status of arbitrators with respect to the NMB and parties in dispute. The rule also provides for the consolidation of minor disputes by the NMB when this will serve the interests of economy and efficiency in the Board's administration of its program of arbitration. Finally, the proposed rule provides for the imposition of filing fees. By imposing modest filing fees, along with a grievance resolution schedule, the NMB hopes to foster faster resolution of minor labor disputes. Prior to proposing the rule, the NMB sought input from the parties through the publication of an advanced notice of proposed rulemaking. The NMB also held a public hearing on the rulemaking.

During FY 2005, the NMB held a second public hearing on the issues relating to the NMB's proposal regarding the establishment of a fee schedule for certain arbitration services. The hearing was held on January 11, 2005. At the end of FY 2006, the matter remains under consideration.

**Online Arbitration.** The NMB introduced more technology into arbitration with the addition of the NMB's Online Video-conferencing Center. During FY 2006, online sessions spanned six carriers (Alabama State Docks, Union Railroad, Kansas City Southern, PATH, CSX and New Jersey Transit) and three unions (United Transportation Union, United Steel Workers, and the Railway Independent Transit Union). The UTU conducted Online Arbitrations at its regional conferences in Reno, Nevada and Asheville, North Carolina.

**Arbitrator Orientation Project.** With the assistance of the NMB, the Union Pacific and UTU conducted an arbitrator training program which resulted in the use of 13 new arbitrators – individuals not new to the arbitration of labor disputes but new to railroad arbitration. The NMB also commenced a project with the Norfolk Southern Railroad with the goal of using new arbitrators at that carrier.





## **Office Administration**

**The primary management and support programs for the NMB are housed within the Office of Administration. These functions include: budget and finance; human resources; accounting and procurement; information technology and telecommunications; property and space management; and office support. From a budgetary standpoint, the majority of the above mentioned costs are contained in the Mediation section of the budget. Because human resources, information technology and records management functions are outsourced, the cost for these activities is prorated among the three program areas of Mediation, Representation, and Arbitration.**



The Government-wide initiatives for the key NMB activities during FY 2006 include the following:

**Strategic Management of Human Capital.**

The Agency makes use of the many hiring flexibilities to recruit and retain its workforce. These flexibilities include the use of (1) retention allowances to retain especially well qualified dispute resolution professionals and (2) the utilization of a Student Loan Repayment Program as an additional inducement for retention. During FY 2006, the agency had four employees participate in the student loan repayment program.

With the recent regulations from the Office of Personnel Management on succession planning and career paths, the agency has begun to explore how these new initiatives can benefit the agency with its human capital planning for the future.

The Board continues to rely on its annual performance management plan to monitor and improve the performance plan for each employee and link all individual development plans (IDP) to the performance plans. During this year, the agency reviewed each employee's position description to ensure accuracy.

**Competitive Sourcing.** The NMB has outsourced three of its activities, human resources, information technology and records management, which has proven to be successful. The Agency has used sound management practices and structures to deliver human resources management services with the combination of an on-site consultant, cross servicing with the General Services Administration and in-house staff to deliver high quality, cost-effective services to its employees. With the new initiative of career paths, the NMB hopes this will aid in providing a more diverse and skilled workforce to meet its strategic and performance goals.

The Board has benefited greatly from its outsourcing of information technology. This arrangement keeps the agency on track with the constant changes in information technology. With the backing of an entire company, the agency is able to draw on various specialties when new requirements arise. During this year, the agency upgraded its IT infrastructure which will enable the NMB to meet the new security requirements.

**Improved Financial Performance.** The NMB has an accounting system that meets all the current financial requirements. This system has enabled the agency to close its monthly financial records within two days. Since the NMB is a small agency with only three program areas, these program costs are reported and budgeted in accordance with the Agency's strategic and performance goals. The costs for all the other departments within the agency are accounted for separately in the accounting system to provide further details of cost.

The Office of Administration (OA) provides budget planning, budget development, and oversight of budget execution. In addition, OA is responsible for the maintenance of the Agency's core accounting system; financial reporting to the Office of Management and Budget (OMB) and Treasury; payments to vendors for goods and services received; issuing bills; and the preparation of the Agency's financial statements, which are audited on an annual basis.

In the area of budget and finance, OA is responsible for the development, analysis, and execution of the NMB's annual budget to the Office of Management and Budget and the Congress. This overall responsibility covers budget formulation and development, implementation and management of appropriate budget operations and control processes through development of operating plans.

The NMB continues to work with an outside audit firm to audit its financial statements. With the accelerated Governmental timeframes for completing financial audits within 45 days from the end of the fiscal year, the Agency has begun the preliminary audit process with the outside audit firm.

In accordance with the Agency's management control plan, the NMB has one of its program or support areas reviewed annually. The internal review conducted for FY 2005 by an outside Audit Company showed that the NMB did not have any material weakness in the area of representation.

# Performance Plan and Results (GPRA)

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The NMB 2006 Performance Plan is driven by the Agency's five-year Strategic Plan which contains outcome goals for the Agency's principal programs. This report contains FY 2006 Accomplishments and FY 2007 Expectations for achieving generalized goals and specific objectives for Mediation, Alternative Dispute Resolution, Representation, and Arbitration.

The budget resources requested by the NMB, along with its allocated full-time equivalent positions, enable the agency to achieve the goals contained in the strategic plan and the annual performance plan. These resources enable the NMB to meet its statutorily mandated obligations and provide services to its airline and railroad labor-management and public customers.

# Performance and Goals

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## **STRATEGIC PLAN GENERAL GOAL 1 MEDIATION**

The Office of Mediation Services will continue to foster the prompt and peaceful resolution of collective bargaining disputes in the airline and railroad industries.

### **I. Establish an internal Standard Code of Practice for mediators.**

#### **FY 2006 Accomplishments**

Review of documents such as by the ABA and ACR is on going.

#### **FY 2007 Expectations**

Expect completion during FY 2007.

### **II. Continue to develop standard training for mediators to ensure they are kept abreast of the latest trends in mediation and gain additional industry and technical knowledge in both air and rail.**

#### **FY 2006 Accomplishments**

Preliminary discussions with leading academic and industry groups occurred, but budget limitations in FY 2006 prohibited further completion of the goal.

#### **FY 2007 Expectations**

Pursue joint training ventures to produce RLA specific mediator and facilitator training

### **III. Better track the history of cases.**

#### **FY 2006 Accomplishments**

In process of installing an updated version of our case management system.

#### **FY 2007 Expectations**

Continue to work with Arbitration and Representation to revise and improve the agency case management system.

### **IV. Ensure that mediator qualifications match the needs of the industries.**

#### **FY 2006 Accomplishments**

We have conducted an informal survey of the parties and have found that our requirements match what they see as needed mediator qualifications.

#### **FY 2007 Expectations**

Based on survey results, no further action is necessary.

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## **STRATEGIC PLAN GENERAL GOAL 2 ALTERNATIVE DISPUTE RESOLUTION (ADR)**

The Office of ADR Services will continue to undertake dispute resolution efforts that encourage the parties in the airline and railroad industries to resolve grievances and bargaining disputes in a voluntary, cooperative manner.

### **I. Expand current ADR capabilities to address the changing labor environment in the airline and railroad industries and provide more varied assistance in dispute resolution both between and during contract negotiations.**

#### **FY 2006 Accomplishments**

During FY2006 ADRS undertook a complete review and update of its ongoing training programs, adding System Boards of Adjustment training, and conducting teambuilding and problem solving facilitation for parties in both the airline and railroad industries. ADRS also used outreach and promotion efforts to raise the visibility of the ADR program. OP cases were used to introduce changes in the NMB training and facilitation services, and to orient parties to the online arbitration program. During the year, forty eight (48) OP cases were opened, forty six (46) of which were conducted by ADRS staff.

#### **FY 2007 Expectations**

During FY2007 ADRS will integrate System Board training into the on-going training program, and will conduct surveys of industry representatives to target new training opportunities. ADRS will also continue to update and improve its training and facilitation programs based on input from the parties.

### **II. Pursue interagency projects, including personnel exchange programs, to enhance labor-management relations throughout the airline and railroad industries.**

#### **FY 2006 Accomplishments**

During FY2006 ADRS continued to participate in the work of the Inter-Agency Dispute Resolution Working Group Steering Committee, including providing technology support for IADRWG projects. ADRS staff also continued to participate in work with the Association of Labor Relations Agencies, including assuming responsibility for management of the ALRA web site.

#### **FY 2007 Expectations**

All of the work from FY2006 will be ongoing in FY2007.

### **III. Engage in outreach and education programs to ensure that the NMB is seen as a world leader in airline and railroad labor-management issues.**

#### **FY 2006 Accomplishments**

During FY2006 ADRS staff participated in a number of public presentations, including conference presentations for the American Bar Association Section on Dispute Resolution and the Association for Conflict Resolution. The ADRS Director presented keynote speeches and/or papers at, among others, the fourth United Nations ODR Conference, the Toledo International ODR Conference, and the IADIS International e-Society Conference.

#### **FY 2007 Expectations**

During FY2007 ADRS will maintain an active outreach program, and will continue to represent the NMB at regional, national, and international conferences.

### **STRATEGIC PLAN GENERAL GOAL 3 REPRESENTATION**

The Office of Legal Affairs (OLA) will promptly investigate representation disputes and definitively resolve representation status

#### **I. Expand the use of electronic systems to further streamline and reduce cost.**

##### **FY 2006 Accomplishments**

In FY 2006 the Office of Legal Affairs (OLA) continued to explore implementation of an internet-based voting system. In addition OLA has begun implementation of an electronic case filing system and is setting up a pilot program for accepting electronic submissions from participants.

##### **FY 2007 Expectations**

Pursue an Internet-based version of Telephone Electronic Voting; work with Arbitration, Mediation, and ADR to upgrade the agency case management system; pursue initiation of an electronic case filing system; and integrate Representation data into the agency Corporate Memory.

#### **II. Develop outreach opportunities in the legal, labor relations and alternative dispute resolution communities.**

##### **FY 2006 Accomplishments**

In FY 2006 OLA continued its outreach to the legal, labor relations and alternative dispute resolution communities. OLA had one or more speakers at the following conferences or seminars: the ABA Railroad and Airline Labor Law Section's Mid-winter meeting; a 2.5 day course on the Railway Labor Act sponsored by ALI-ABA; and a conference on the passenger rail industry sponsored by the Board. OLA also participated in a presentation on the Railway Labor Act to be used as training for employees of the National Labor Relations Board. The Association of Labor Relations Agencies recently held its annual conference in Baltimore, MD and the Office of Legal Affairs played a significant role in the planning and hosting of this international conference of leading labor relations practitioners.

##### **FY 2007 Expectations**

Submit proposals for participation in ABA-sponsored conferences, and develop appropriate CLE and other training opportunities for RLA practitioners.

#### **III. Enhance recruitment and training of attorneys.**

##### **FY 2006 Accomplishments**

At present, OLA is fully staffed. The attorneys in the Office of Legal Affairs are encouraged to pursue career development opportunities. In FY 2006 each attorney updated or created an Individual Development Plan (IDP) and pursued the development opportunities listed on their IDP's. In addition, OLA's participation in the numerous outreach activities outlined above aid in maintaining a diverse pool of applicants for attorney positions.

##### **FY 2007 Expectations**

Implement individuals' development plans for enhancing the performance of the attorneys, and improve outreach activities to maintain a diverse pool of applicants for attorney positions.

#### **IV. Implement and maintain concise, relevant reference materials, readily available to the public, which reduce the number of man-hours used to research and respond to inquiries.**

##### **FY 2006 Accomplishments**

Attorneys in the Office of Legal Affairs served as editors of the authoritative treatise on Railway Labor Act Law published by BNA in 2006. In addition, all representation decisions are now available on-line both through the NMB's web-site and the newly created NMB Knowledge Store.

##### **FY 2007 Expectations**

Update and improve the material available on the NMB web site, and work with ADRS to move public information to the NMB Knowledge Store.

**V. Maintain continuous industry and agency communication at a level that provides early preparation for Presidential Emergency Board management.**

**FY 2006 Accomplishments**

The Office of Legal Affairs coordinated with the Office of Mediation Services regarding the creation of PEB 239.

**FY 2007 Expectations**

Coordinate efforts with the Office of Mediation Services to identify potential disruptions which may lead to a Presidential Emergency Board.

**STRATEGIC PLAN GENERAL GOAL 4  
ARBITRATION**

Arbitration will promote the prompt and orderly resolution of grievance disputes in the railroad and industries.

**I. Modernize and update procedures related to NRAB cases (Section 3) and other arbitral forums (public law boards and system boards of adjustment).**

**FY 2006 Accomplishments**

The NMB dedicated a separate electronic mailbox for the submission of all documents concerning Section 3 matters. NRAB administrative processes as well as the procedures governing public law boards and system boards of adjustments were reviewed with the goal of streamlining the procedures.

**FY 2007 Expectations**

Further reviews are scheduled for Fiscal Year 2007.

**II. Foster a “best practices” approach to managing the contract arbitrator roster.**

**FY 2006 Accomplishments**

The NMB instituted several projects to help the parties better utilize the NMB’s Roster of Arbitrators. One project involved the Union Pacific Railroad and the United Transportation Union. Another project was initiated involving the Norfolk Southern Railroad. The NMB’s Roster of Arbitrators was placed on the agency’s web site.

**FY 2007 Expectations**

Move arbitrator roster information to a new case management system, and improve the guidelines for accepting applicants to the roster.

**III. Foster a “best practices” approach to managing arbitrator billing and payment.**

**FY 2006 Accomplishments**

The NMB initiated a review of its arbitrator billing and payment process.

**FY 2007 Expectations**

Develop a more equitable and efficient arbitrator billing process.

**IV. Integrate current technology into the arbitration process.**

**FY 2006 Accomplishments**

The NMB instituted its web-based video system as a means of conducting the appellate hearings. The NMB trained several arbitrators, railroad management officials and labor officials in its use. Several hearings were conducted in Online Arbitration during Fiscal Year 2006.

**FY 2007 Expectations**

Continue to integrate Arbitration business processes into the NMB Corporate Memory program; cooperate with Mediation, ADR, and Representation to improve the agency case management system; and continue to encourage the parties to use the agency’s web-based video system, and the cooperative agreement with the NLRB, to reduce costs for arbitration hearings and adoption conferences.



# Financial Reports (FFMIA)

## CFO Letter

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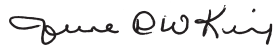
October 25, 2006

The National Mediation Board (NMB) is pleased to present its Fiscal Year (FY) 2006 Performance and Accountability Report.

For the 9th consecutive year, the NMB received an unqualified audit opinion from its auditors, Allmond and Company. While we are very pleased of this achievement, we will continue to promote sound business practices and accountability toward the ultimate goal of fulfilling our mission now and into the future. We will also continue to promote effective management controls and focus on implementing the President's Management Agenda initiatives.

During Fiscal Year 2006, the NMB met its objectives which enhanced the services provided to our internal and external customers. These services included improved management of human capital; continued assessment of opportunities to outsource commercial tasks; improved financial performance; expanded E-government applications; and strengthened the linkage between budget planning and agency performance.

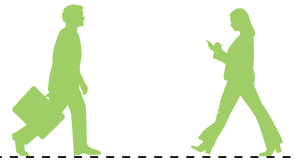
The NMB is committed to improving its track record of professional excellence, accountability, and responsibility in the administration of its programs and financial operations.



**JUNE D.W. KING**

Director, Office of Administration

# Audit Report



## **September 30, 2006**

Allmond & Company  
Certified Public Accountants  
8181 Professional Place, Suite 250  
Landover, Maryland 20785  
(301) 918-8200

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# Independent Auditor's Report

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## **Board Members**

### **National Mediation Board**

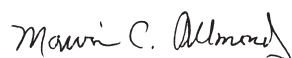
We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2006, and the related statements of net cost, changes in net position, and statements of budgetary resources and financing for the year then ended (the principal financial statements). These financial statements are the responsibility of NMB management and were prepared by NMB in accordance with Office of Management and Budget (OMB) Circular A-136, Form and Content of Agency Financial Statements, as amended. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Government Auditing Standards, auditing standards generally accepted in the United States, and OMB Bulletin No. 01-02, Audit Requirements for Federal Financial Statements. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the principal financial statements referred to above present fairly, in all material respects, the financial position of NMB as of September 30, 2006, and its net costs, changes in net position, budgetary resources, and financing for the year then ended in conformity with accounting principles generally accepted in the United States.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. In accordance with Government Auditing Standards, we issued separate reports dated October 23, 2006 on NMB's internal control and compliance with laws and regulations. Our reports on internal control and compliance are an integral part of an audit conducted in accordance with Government Auditing Standards and, in considering the results of the audit, those reports should be read together with this report.

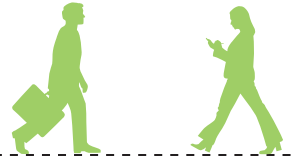
### **ALLMOND & COMPANY**



Marvin C. Allmond, CPA

October 23, 2006 Landover, Maryland

# Independent Auditor's Report on Internal Control



## **Board Members** **National Mediation Board**

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2006, and the related statements of net cost, changes in net position, budgetary resources, and financing for the year then ended (the principal financial statements) and issued our report thereon, dated October 23, 2006. We conducted our audit in accordance with Government Auditing Standards, auditing standards generally accepted in the United States, and Office of Management and Budget (OMB) Bulletin No. 01-02, Audit Requirements for Federal Financial Statements.

In planning and performing our audit, we considered NMB's internal control over financial reporting by obtaining an understanding of NMB's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of control to determine auditing procedures for the purpose of expressing our opinion on the principal financial statements. We limited internal control testing to that necessary to achieve the objectives described in OMB Bulletin No. 01-02. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as the internal control relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control. Consequently, we do not express an opinion on internal control.

With respect to internal control related to performance measures reported in NMB management's overview, we obtained an understanding of the design of significant internal control relating to the existence and completeness assertions, as required by OMB Bulletin 01-02. We also assessed control risk relevant to NMB intra-agency transactions and balances. Our procedures were not designed to provide assurance on internal control over reported performance measures, and accordingly, we do not express an opinion on such control.

Our consideration of internal control over financial reporting would not necessarily disclose all matters that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of internal control that, in our judgment, could adversely affect NMB's ability to record, process, summarize, and report financial data consistent with assertions by management in the financial statements.

Material weaknesses are reportable conditions in which the design or operation of one or more internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal control, misstatements, losses, or noncompliance may nevertheless occur and not be detected. We noted no conditions involving internal control and its operation that we consider reportable conditions.

## **Status of Prior-year Recommendations**

In the FY 2005 report on internal control, we did not describe any reportable conditions. Accordingly, no follow-up action is outstanding as it relates to resolving reportable conditions.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. This report is intended solely for the information of NMB management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

## **ALLMOND & COMPANY**

*Marvin C. Allmond*

Marvin C. Allmond, CPA  
October 23, 2006 Landover, Maryland

# Independent Auditor's Report on Compliance

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## **Board Members**

### **National Mediation Board**

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2006, and the related statements of net cost, changes in net position, budgetary resources, and financing for the year then ended (the principal financial statements) and issued our report thereon, dated October 23, 2006.

We conducted our audit in accordance with Government Auditing Standards, auditing standards generally accepted in the United States, and Office of Management and Budget (OMB) Bulletin No. 01-02, Audit Requirements for Federal Financial Statements. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

NMB management is responsible for complying with laws and regulations. As part of obtaining reasonable assurance about whether NMB's financial statements are free of material misstatement, we performed tests of its compliance with:

- Certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts.
- Certain other laws and regulations specified in OMB Bulletin No. 01-02.
- Requirements referred to in the Federal Financial Management Improvement Act (FFMIA) of 1996.

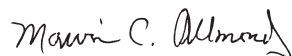
We limited our tests of compliance to these provisions and did not test compliance with all laws and regulations applicable to NMB. Our audit was not designed to provide an opinion on compliance with provisions of laws and regulations. Accordingly, we do not express such an opinion.

Our tests disclosed no instances of material noncompliance required to be reported under Government Auditing Standards. Additionally, we did not note any instances of immaterial noncompliance.

Under FFMIA, we are required to report whether the agency's financial management systems substantially comply with Federal financial management systems requirements, Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed the procedures specified in OMB's January 4, 2001, FFMIA implementation guidance. The results of our tests disclosed that NMB's financial management systems substantially complied with the three requirements in this paragraph.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. This report is intended solely for the information of NMB management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

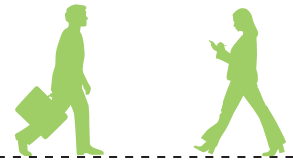
### **ALLMOND & COMPANY**



Marvin C. Allmond, CPA

October 23, 2006 Landover, Maryland

# Financial Statements



## National Mediation Board Balance Sheet As of September 30, 2006 & 2005

	2006	2005
Entity assets:		
Intragovernmental:		
Fund Balance with Treasury (note 2)	\$ 3,485,279	\$ 3,765,196
Real Estate, Property and Equipment (note 3)	87,547	211,314
Total assets	<u>3,572,826</u>	<u>3,976,510</u>
Liabilities and Net Position		
Liabilities:		
Intragovernmental:		
Accounts payable	\$ 48,200	\$ 93,172
Governmental liabilities:		
Accounts Payable	\$ 189,659	\$ 288,639
Accrued payroll and benefits	212,918	222,170
Unfunded annual leave	347,549	278,658
Total liabilities	798,326	882,639
Net position:		
Unexpended Appropriated Capital	3,034,502	3,161,215
Cumulative Results of Operations	(260,002)	(67,344)
Total Net Position	<u>2,774,500</u>	<u>3,093,871</u>
Total liabilities and net position	<u>\$ 3,572,826</u>	<u>\$ 3,976,510</u>

# Financial Statements

## National Mediation Board Statement of Net Cost As of September 30, 2006 & 2005

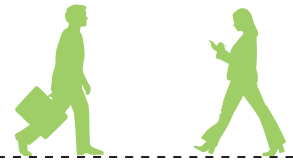
	2006	2005
Program Costs:		
Mediation, Representation, Arbitration & Emergency Board		
Intragovernmental	\$ 3,271,396	\$ 3,586,661
With the Public	8,477,821	8,376,662
Total	11,749,217	11,963,323
Less Revenue from Services	(6,409)	(6,961)
Net Program Costs	\$ 11,742,808	\$ 11,956,362
Net Cost of Operations	\$ 11,742,808	\$ 11,956,362

## National Mediation Board Statement of Changes in Net Position As of September 30, 2006 & 2005

	2006	2005
Unexpended Appropriations:		
Beginning Balance - October 1, 2005	\$ 3,161,215	\$ 2,910,385
Prior Period Adjustments	0	0
Beginning Balance Adjusted	\$ 3,161,215	\$ 2,910,385
Appropriations Received	11,628,000	11,722,000
Other Adjustments	(530,970)	(31,244)
Appropriations Used	(11,223,743)	(11,439,926)
Total Unexpended Appropriations	\$ 3,034,502	\$ 3,161,215
Cumulative Results of Operations:		
Beginning Balance - October 1, 2005	\$ (67,344)	\$ 132,914
Prior Period Adjustments - All Other Funds	0	0
Beginning Balance as Adjusted - All Other Funds	\$ (67,344)	\$ 132,914
Appropriations Used - All Other Funds	11,225,570	11,439,927
Imputed Financing - All Other Funds (Note 5)	324,580	316,177
Net Cost of Operations - All Other Funds	(11,742,808)	(11,956,362)
Total Cumulative Result of Operations	\$ (260,002)	\$ (67,334)



# Financial Statements



## National Mediation Board Statement of Budgetary Resources As of September 30, 2006 & 2005

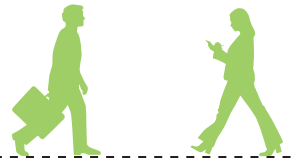
	2006	2005
Budgetary Resources:		
Budget Authority	\$ 11,628,000	\$ 11,722,000
Unobligated Balance - Beginning Period	2,631,616	2,485,022
Spending authority from Offsetting Collections	8,237	6,961
Adjustments	(\$530,971)	(\$215,580)
Total Budgetary Resources	<u>\$ 13,736,882</u>	<u>\$ 13,998,403</u>
Status of Budgetary Resources:		
Obligations Incurred	\$ 11,168,538	\$ 11,366,787
Unobligated Balance - Available	288,932	407,944
Unobligated Balance - Not Available	2,279,412	2,223,672
Total, Status of Budgetary Resources	<u>\$ 13,736,882</u>	<u>\$ 13,998,403</u>
Outlays:		
Obligations Incurred	\$ 11,168,538	\$ 11,366,787
Less: Spending Authority from Offsetting Collections and Adjustments	(8,237)	(6,961)
Obligated Balance, Net - Beginning Period	1,133,580	1,237,669
Obligated Balance, Transferred, Net		
Less Obligated Balance, Net - End of Period	(916,935)	(1,133,580)
Total outlays	<u>\$ 11,376,946</u>	<u>\$ 11,463,915</u>

# Financial Statements

## National Mediation Board Statement of Financing As of September 30, 2006 & 2005

	2006	2005
Resources Used to Finance Activities		
Obligations Incurred	\$ 11,168,538	\$ 11,366,787
Less: Spending Authority for Offsetting Collections and Adjustments	(8,237)	(6,961)
Imputed Financing (Note 5)	324,580	316,177
Total Budgetary Resources Used to Finance Activities	\$ 11,484,881	\$ 11,676,003
Less: Resources Not Used to Finance Net Cost of Operations		
Change in Amount of Goods, Services, and Benefits		
Ordered but not yet Received or Provided	(\$63,442)	(\$119,419)
Costs Capitalized on the Balance Sheet	97,892	17,378
Other	(1,826)	39,319
Total Resources Not Used to Finance Net Cost of Operations	\$ 32,624	\$ (62,722)
Total Resources Used to Finance Net Cost of Operations	11,452,257	11,738,725
Costs that do not require Resources:		
Depreciation and amortization	\$ 221,659	\$ 203,958
Revaluation of Assets and Liabilities	68,891	13,678
Total Costs that do not require Resources	290,550	217,636
Net Cost of Operations	\$ 11,742,807	\$ 11,956,361

# Notes to Financial Statements



## Note 1: Summary of Significant Accounting Policies

### Description of Reporting Entity

The National Mediation Board (NMB), established in 1934 under Section 4 of the Railway Labor Act (RLA), is an independent U.S. federal government agency that performs a central role in facilitating harmonious labor-management relations within two of the nation's major transportation modes - the railroads and airlines. Recognizing the importance of these transportation industries to the public shippers, and consumers, as well as to the economy and security of the country, the RLA established NMB to promote four key statutory goals:

The prompt and orderly resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;

The avoidance of interruptions to interstate commerce;

The protection of employee rights to self-organization; and

The prompt and orderly resolution of disputes over the interpretation or application of existing agreements.

These financial statements include all activity related to NMB's appropriation (No. 9562400), the principal funding for all NMB activities.

NMB prepares its financial statements to be in conformity with general accepted accounting principles.

NMB does not hold any non-entity assets and has no earmarked funds as described by the Government Accountability Office (GAO).

### Budgets and Budgetary Accounting

Congress annually adopts a budget appropriation that provides NMB with authority to use funds from Treasury to meet operating and program expense requirements. NMB has single year budgetary authority and all unobligated amounts at year-end are expired. At the end of the fifth year all amounts not expended are canceled. All revenue received from other sources must be returned to the U.S. Treasury.

### Basis of Accounting

NMB's financial statements are prepared under the accrual method of accounting. The accrual method of accounting requires recognition of the financial effects of transactions, events, and circumstances in the period(s) when those transactions, events, and circumstances occur, regardless of when cash is received or paid. NMB also uses budgetary accounting to facilitate compliance with legal constraints and to keep track of its budget authority at the various stages of execution, including allotment, obligation, and eventual outlay.

The Balance Sheet, Statement of Net Cost, Statement of Net Position, Statement of Financing, and Statement of Budgetary Resources have been prepared in accordance with generally accepted accounting principles.

# Notes to Financial Statements

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## **Revenue and Other Financing Sources**

NMB receives funds to support its programs through annual appropriations. These may be used to pay program and administrative expenses (primarily salaries and benefits, occupancy, travel, and contractual services costs).

Appropriations are recognized as revenue at the time they are used to pay program or administrative expenses. Appropriations used to acquire property and equipment are recognized as revenues when depreciation on the assets is recognized.

NMB also earns revenue when it bills for copies of subscriptions. These subscriptions are for determinations on the cases NMB handles.

## **Fund Balances with the US Department of the Treasury**

NMB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by Treasury. The balance of funds with Treasury represents appropriated fund balances that are available to pay current liabilities and finance authorized purchase commitments relative to goods or services that have not been received.

## **Property and Equipment**

Property and equipment is stated at cost less accumulated depreciation. NMB capitalizes property and equipment purchases with a cost greater than \$5,000, and a total useful life exceeding one year. Depreciation is calculated on a straight-line basis based on an estimated useful life of 5 years for all assets. Expenditures for repairs and maintenance are charged to operating expenses as incurred.

When NMB enters into a lease agreement, as lessee, if the title of the asset transfers to NMB at the end of the lease, NMB capitalizes the lease if it is capitalizable and amortizes the cost over the economic useful life of the asset.

## **Liabilities**

Liabilities represent the amount of monies or other resources that are likely to be paid by NMB as the result of a transaction or event that has already occurred. However, no liability can be paid by NMB absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriations will be enacted. Also, liabilities of NMB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

Regarding NMB's building lease, the General Services Administration (GSA) entered into a lease agreement for NMB's rental of building space. NMB pays GSA a standard level users charge for the annual rental. The standard level users charge approximates the commercial rental rates for similar properties. NMB is not legally a party to any building lease agreements, so it does not record GSA-owned properties and does not disclose future minimum lease payments.

# Notes to Financial Statements



## Accrued Leave

Accrued payroll and benefits reflect salaries and benefits that have been earned, but not disbursed as of September 30, 2006.

## Unfunded Annual Leave

Annual leave is accrued as a liability as it is earned. The accrual is reduced as leave is taken. Each year, the balance in the accrued annual leave account is adjusted to reflect current year pay rates. To the extent that the current or prior year appropriations are not available to fund annual leave earned but not taken, funding will be obtained from future appropriations. Sick leave and other types of non-vested leave are charged to expense as the leave is used.

## Liabilities Not Covered By Budgetary Resources

These liabilities are not funded by direct budgetary authority. Liabilities not covered by budgetary resources result from the receipt of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity. Liabilities not covered by budgetary resources as of September 30, 2006 were:

	2006	2005
Unfunded Annual Leave	\$ 347,549	\$ 278,658

## Net Position

Appropriated fund balance consists of the following components:

*Unexpended appropriated capital* - represents amounts of unavailable and available spending authority that are unobligated, or obligated but not expended. The obligated amount represents amounts for goods and/or services outstanding for which funds have been obligated, but the liabilities have not been accrued.

	2006	2005
Unobligated, available	\$ 0	\$ 0
Unobligated, unavailable	2,568,345	2,631,616
Undelivered, Orders	466,157	529,599
Unexpended Appropriated Capital	\$ 3,034,502	\$ 3,161,215

*Invested capital* - represents NMB's cost of property, plant and equipment, inventory and operating materials and supplies acquired that has been financed by appropriations less the reduction in investment due to depreciation.

*Future funding requirements* - represents the liabilities not covered by available budgetary resources.

# Notes to Financial Statements

## Retirement Plan

NMB's employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). Employees participating in CSRS contribute 7 percent of their gross pay to the plan, and NMB contributes 8.51 percent.

On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and are eligible for Social Security benefits. Employees hired prior to January 1, 1984, could elect either to transfer to the FERS plan and become eligible for Social Security benefits or remain in CSRS. A primary feature of FERS is that it offers a savings plan in which NMB automatically contributes 1 percent of employees' pay and matches any employee contribution up to an additional 4 percent of pay.

The actuarial present value of accumulated benefits, assets available for benefits, and unfunded pension liability of CSRS and FERS is not allocated to individual departments and agencies and is therefore not disclosed by NMB. The reporting of these amounts is the responsibility of the Office of Personnel Management.

During fiscal year 2006 and 2005, NMB paid \$69,492 and \$69,168 for CSRS, and \$353,585 and \$379,409 for FERS, respectively for its employees' coverage.

## Tax Status

NMB, as an independent Board of the executive branch, a federal agency, is not subject to federal, state, or local income taxes, and, accordingly, no provision for income tax is recorded.

## Note 2: Fund Balances with Treasury

Fund balances with Treasury were entirely entity assets from appropriations and consisted of the following:

	2006	2005
Unobligated	\$ 916,935	\$ 1,133,580
Unobligated, available	0	0
Undelivered Restricted	2,568,344	2,631,616
Fund Balance with Treasury	\$ 3,485,279	\$ 3,765,196

## Note 3: Property and Equipment, Net

NMB uses straight-line depreciation with a useful life of 5 years and a capitalization threshold of \$5,000. Property and equipment, and related accumulated depreciation, at September 30, 2006 and September 30, 2005 consisted of:

	2006	2005
Equipment-Capitalized	\$ 664,962	\$ 567,070
Computer Software-Capitalized	131,325	131,325
Leasehold Improvements	1,133,508	1,133,508
Capital Lease	23,362	23,362
	1,953,157	1,855,265
Less: Accumulated Depreciation	(1,865,610)	(1,643,951)
Total Property & Equipment, Net	\$ 87,547	211,314

# Notes to Financial Statements



Property and equipment, and related accumulated depreciation at September 30, 2006 consisted of:

	Value	Accumulated Depreciation	Book Value
Equipment-Capitalized	\$ 664,962	\$ 577,415	\$ 87,547
Computer Software-Capitalized	131,325	131,325	0
Leasehold Improvements	1,133,508	1,133,508	0
Capital Leases	23,362	23,362	0
Total Property & Equipment	\$ 1,953,157	\$ 1,865,610	\$ 87,547

## Note 4: Program/Operating Expenses

Although OMB 01-09 does not require that operating expenses be broken out by program and object classification, for FY 2006, NMB has chosen to display its operating expenses by object classification for FY 2006 and FY 2005. NMB only has one program.

	2006	2005
Personnel Compensation	\$ 6,752,997	\$ 6,966,501
Personnel Benefits	1,254,886	1,315,691
Former Benefits	61,008	0
Travel of Persons	540,288	686,761
Transportation of Things	5,256	11,534
Rent/Comm/Utilities	1,222,247	1,260,793
Printing	22,341	39,766
Other Services	986,426	844,634
Supplies	102,386	217,184
Equipment	55,798	49,991
Unvouchered	130,454	36,654
Total	\$ 11,134,087	\$ 11,429,509

## Note 5: Pensions, Other Retirement Benefits, and Other Post Retirement Benefits

The NMB reports the full cost of employee pensions, other retirement benefits, and other post-employment benefits in accordance with SFFAS No. 5, Accounting for Liabilities of the Federal Government. Although the NMB funds a portion of the benefits under FERS and CSRS relating to its employees and withholds the necessary payroll deductions, a portion of the Normal Pension Cost remains unpaid. SFFAS No. 5 requires the recognition of this remaining cost as imputed financing.

Pension and other retirement benefit expenses are calculated using cost factors determined by actuaries at the Office of Personnel Management. These cost factors are calculated based on economic and demographic assumptions. The cost factor is multiplied by the basic pay in order to obtain the "Normal Cost" for the accounting period. This Normal Cost is the present value of the projected benefits of each employee allocated on a level basis over the service of the employee between entry age and assumed exit age.



# Notes to Financial Statements

The imputed financing amount represents the difference between the employer's total pension expense and the employer's contribution. For the period ending September 30, 2006 the Normal Cost, employer's total pension expense, employer's contribution and imputed financing amounts were as follows:

Employee Type	Normal Cost	Employer Total Pension Expense	Employer Contribution	Employer Imputed Financing Expense
CSRS	\$ 241,936	\$ 69,981	\$ 139,963	\$ 101,973
CSRS Offset	10,189	475	4,171	6,018
FERS	392,605	27,312	392,605	0
<b>Total</b>	<b>\$ 644,730</b>	<b>\$ 97,768</b>	<b>\$ 536,739</b>	<b>\$ 107,991</b>
Health Insurance				215,696
Life Insurance				894
<b>Total</b>				<b>216,590</b>
<b>Grand Total Imputed Financing</b>				<b>\$ 324,581</b>

## Note 6: Obligated Balances, Net, End of Period as of September 30, 2006.

The components of the obligated balance as of September 30, 2006 are:

Undelivered Orders	\$ 466,154
Accounts Payable	450,777
<b>Total Obligated Balance</b>	<b>\$ 916,931</b>

# Internal Controls (FMFIA)



**Report Of the National Mediation Board (NMB) for Fiscal Year 2006 (FY 06) pursuant to Sections 2 and 4 of the Integrity Act. (See: 31 U.S.C. § 3512(D)(2) and (D)(2)(B), respectively).**

## **FY 06 Internal Controls Evaluation**

The FY 06 NMB Internal Controls Evaluation establishes a reasonable assurance that the agency's controls are achieving their intended objectives and that the agency's financial management systems conform with government-wide requirements.

The NMB's concept of reasonable assurance recognizes that the cost of internal controls should not exceed the benefits derived and that the benefits should reduce the risk of failing to achieve stated objectives.

Furthermore, the NMB's systems of internal accounting and administrative control provide reasonable assurance that:

- Obligations and costs are in compliance with applicable law;
- Funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and
- Revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of reliable financial and statistical reports and to maintain accountability over the assets.

The NMB is a small independent agency with limited resources. Consequently, the cost of an annual evaluation of each function or assessable unit of the NMB will outweigh the benefits derived. OMB Circular A-123, Management Accountability and Control, revised June 21, 1995, encourages agency heads to streamline Integrity Act compliance efforts by ensuring that the cost of evaluation methods do not outweigh the benefits derived. As a result, NMB has adopted the following techniques to obtain feedback on the effectiveness of its management controls:

- Questionnaires;
- Annual internal control review of one assessable unit or one component;
- Chief Financial Officer Act (CFO) audits of financial statements; and
- Summary of instances of non-compliance that come to management's attention during the year.

The NMB continues to evaluate and to improve the agency's internal control systems in accordance with the Office of Management and Budget's Guidelines for the Evaluation and Improvement of and Reporting on Internal Control System in the Federal Government, and the Comptroller General's Guidelines.

## **FY 06 Financial Statement Audit**

Finally, the NMB's FY 06 Financial Statement Audit in accordance with the Chief Financial Officers (CFO) Act of 1990 is in process. This is the NMB's twelfth year undergoing such an audit. The audit has disclosed no material weaknesses in the agency's internal control system.

# Internal Controls (FMFIA)

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## **Documentation and Statistical Summary Enclosures**

The NMB's FY 06 Internal Control Evaluation is formulated pursuant to the agency's Management Control Plan (Plan) at Enclosure A. The agency's annual internal control evaluation employs the techniques on pages 3-4 of the Plan to obtain feedback from managers and employees. In support of the evaluation, the NMB prepares a Statistical Summary of Performance reflecting a five (5) year history as well as, the current FY 06 reporting year at Enclosure B. Finally, to assist the review of this report, a brief description of the Conduct of the Internal Control Evaluation Process is found at Enclosure C.

## **Summary**

Based on the FY 06 NMB review, there is a reasonable assurance that the NMB controls are achieving their intended objectives and that the agency's accounting systems are in conformance with the principles, standards, and related requirements prescribed by the Comptroller General.

-Enclosures-

## ENCLOSURE A



### **NATIONAL MEDIATION BOARD DOCUMENTATION OF MANAGEMENT CONTROL PLAN**

#### **Prepared By**

Allmond & Company  
Certified Public Accountants  
8181 Professional Place, Suite 250  
Landover, Maryland 20785  
(301) 918-8200

#### **INTRODUCTION**

The National Mediation Board (NMB or Board) was established in 1934 under section 4 of the Railway Labor Act (Title 45 of the US Code) as an independent agency in the executive branch of the United States Government. The Board's main goals are:

- The prompt and orderly resolution of disputes arising out of the negotiations of new or revised collective bargaining agreements;
- The avoidance of interruptions to interstate commerce;
- The protection of employee rights to self-organization; and
- The prompt and orderly resolution of disputes over the interpretation or application of existing agreements.

Amendments in 1936 and 1981 expanded the Board's authority to include jurisdiction over airlines and publicly funded and operated commuter passenger railroads respectively.

As authorized by the regulations, the Board members may appoint officers and employees to assist in effectively performing the functions of the Board. In addition the Board may also fix salaries and make such expenditures as are necessary for the execution of the functions vested in the Board by Congress. Currently, the Board is authorized 52 full time equivalent positions.

During fiscal year 1996, the Board initiated a reorganization which included consolidating the mediators to the Washington, DC headquarters. A small satellite office is maintained in Chicago, IL to support the work of the National Railroad Adjustment Board (NRAB). The NMB receives its entire funding through an annual appropriation that totaled \$11,511,720 in FY 2006. The Board has no other source of revenue.

#### **FMFIA AND OMB A-123**

The importance of management controls is addressed in many statutes and executive documents. The Federal Managers' Financial Integrity Act (FMFIA) passed in 1982, establishes specific requirements with regard to management controls. The "agency head" must establish controls that reasonably ensure that: (1) obligations and costs comply with applicable law; (2) assets are safeguarded against waste, loss, unauthorized use or misappropriation; and (3) revenues and expenditures are properly accounted for and recorded. In addition, the agency head annually must evaluate and report on the control and financial systems that protect the integrity of Federal programs. The Act encompasses program, operational, and administrative areas as well as accounting and financial management.

The Office of Management and Budget's (OMB) implementation guide for FMFIA is contained in OMB Circular No. A-123, Management Accountability and Control, which was initially issued in August 1983 and amended in August 1986 and June 1995. The Circular states that agencies and individual Federal Managers must take systematic and pro-active measures to: (1) develop and implement appropriate, cost effective management controls for results

## ENCLOSURE A (CONTINUED)

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oriented management; (2) assess the adequacy of management controls in Federal programs and operations; (3) identify needed improvements; (4) take corresponding corrective action; and (5) report annually on management controls. Management controls are the organizational structures, policies, and procedures being utilized as tools to help program and financial managers achieve results and safeguard the integrity of their programs.

OMB Circular A-123 and FMFIA identify three objectives of management controls. They are to ensure that (1) obligations and costs comply with applicable law, (2) assets are safeguarded against waste, fraud, loss, unauthorized use or misappropriation, and (3) revenues and expenditures are accounted for and recorded properly.

The best approach toward management controls required by FMFIA is to integrate the controls with other efforts to improve effectiveness and accountability. In this way, management controls become an integral part of the entire cycle of planning, budgeting, management, accounting, and auditing. They support the effectiveness and the integrity of every step of the process and provide continual feedback to management. The Board felt that developing a written strategy for internal agency use would help ensure that appropriate action is taken throughout the year to meet the objectives of FMFIA. Consequently, this document was designed to provide a framework for the development and continuous evaluation of management controls as required by FMFIA and OMB Circular A-123.

As part of the implementation of FMFIA, the General Accounting Office (GAO) established internal control standards for federal agencies in 1983. The GAO publication was titled Standards for Internal Controls in the Federal Government and was referred to as the Green Book. The NMB has strengthened its internal control system by ensuring that all the Green Book standards are an integral part of daily operations. NMB's management control system is composed of a plan of operations and policies and procedures adopted by management to ensure that: (1) resource use is consistent with laws, regulations, and policies; (2) resources are safeguarded against waste, fraud, and misuse, and; (3) reliable data is obtained, maintained, and fairly disclosed in reports. NMB recognizes that an appropriate balance of controls must exist in programs and operations. Too many controls can result in inefficient and ineffective government. Managers should benefit from controls, not be encumbered by them.

The proper stewardship of Federal resources is a fundamental responsibility of management and staff. Federal employees must ensure that government resources are used efficiently and effectively to achieve intended program results. Resources must be used in a manner consistent with agency mission, in compliance with law and regulation, and with minimal potential for waste, fraud, and mismanagement.

### ASSESSABLE UNITS

Due to the limited size of the NMB, the selection of assessable units was not a difficult process. Five assessable units were identified.

### Mediation

The primary function of the NMB is to mediate collective bargaining agreements in the Railroad and Airline industries and avoid disruption of services in these industries due to strikes. The mediators work with representatives of the union and management in order to come to an agreement on a contract. Mediation is performed predominately by NMB staff.

### Alternative Dispute Resolution

In addition to traditional mediation services, the NMB also provides Alternative Dispute Resolution (ADR) services. The purpose of the Board's ADR program is to assist the parties in learning and applying more-effective, less-confrontational methods for resolving more of their disputes without outside intervention. ADR services include facilitation, training, grievance mediation and an Online Dispute Resolution (ODR) component which applies online technology to the dispute resolution process.



### **Representation**

Representation determines which unions have the right to represent a specific group of employees in contract negotiations. NMB supervises the formation of unions, monitors elections and certifies unions to represent the employees in contract negotiations. Representation is also performed by NMB Staff.

### **Arbitration**

In addition to mediating collective bargaining agreements between labor and management, the NMB provides arbitration services to clarify interpretations of those contracts as they apply to individual situations involving management and an employee. The arbitration services are performed through the NRAB. While the NRAB is a separate entity from the NMB, the activities of the NRAB are funded by the NMB. Arbitration services are generally provided by contract arbitrators rather than permanent NMB employees.

### **Support Services**

Support Services are the administrative and financial functions that provide support for the mediation, representation, and arbitration programs that are at the core of the Board's mission. These services include Personnel and Training, Travel, Procurement, Accounting, Budgeting, and Administrative Support.

## **APPROACH FOR FMFIA COMPLIANCE**

The NMB is a small federal agency with limited resources. Consequently, the cost of an annual evaluation of each function or assessable unit of the NMB will outweigh the benefits derived. OMB Circular A-123 as revised in June 1995 encouraged agency heads to streamline their FMFIA compliance efforts by ensuring that the cost of evaluation methods do not outweigh the benefits derived. As a result, NMB has adopted the following techniques to obtain feedback on the effectiveness of its management controls:

- Questionnaires,
- Annual internal control review of one assessable unit or one component,
- Chief Financial Officer Act audits of financial statements, and
- Summary of instances of non compliance that come to management's attention during the year.

NMB managers will assess management controls in all assessable areas annually using a questionnaire. The questionnaire will be used to: (1) identify vulnerable areas; (2) identify management controls in place to prevent loss or unauthorized loss or unauthorized use of resources, errors in reporting, or violation of laws, regulations, or policies, and; (3) identify instances of non compliance with management controls. The questionnaire is used as the primary source of feedback and tool for reporting to the President and Congress annually.

Internal Control Reviews are utilized as a secondary method of assessing management controls. An internal control review will be performed annually of at least one assessable unit or component functional area. In performing the review NMB will:

- Gain an understanding of the functions (event cycles) performed by the assessable unit by reviewing the published policies and procedures and observing NMB employees performing their tasks.
- Prepare narrative descriptions and flowcharts of the policies and procedures in operation, and identified management controls in place.
- Assess the level of inherent risk and vulnerability to waste, loss, unauthorized use, or misappropriation as either high, medium, or low, and obtain NMB management's concurrence with the ratings based on the documented understanding of policies and procedures.

## ENCLOSURE A (CONTINUED)

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- Develop procedures and prepare plan(s) to test the adequacy and effectiveness of management controls in place for the review period. Where applicable, the requirements of OMB Circulars A-123, Management Accountability and Control, A-127, Financial Management System, and A-130, Management of Federal Information Systems will be considered.
- Perform the approved tests of management controls.

An independent audit of the NMB's financial Statements will be performed annually. NMB prepares its financial statements as required under the Chief Financial Officers' (CFO) Act in accordance with OMB Bulletin Number 97-01, Statements of Federal Financial Accounting Standards (SFFAS), and the remaining hierarchy of federal accounting standards. The audit will be conducted in accordance with generally accepted auditing standards set by the American Institute of Certified Public Accountants; generally accepted government auditing standards as set forth in Government Auditing Standards, 1994 Revision (Yellow Book), and OMB Bulletin No. 93-06, Audit Requirements of Federal Financial Statements (or its successor). All findings on internal control weaknesses and noncompliance with laws, regulations, and directives identified in the audit report and management letter will be reviewed for inclusion in the annual FMFIA report. Currently, management receives feedback from various other sources such as monthly reporting by department managers, staff meetings, conferences and briefings, and self assessments. Information on instances of noncompliance with management controls will continue to be gathered from these sources and considered for FMFIA annual reporting.

### CORRECTIVE ACTION AND FOLLOW UP

A management control deficiency will be reported to the next level of management. Employees and managers generally report deficiencies to the next supervisory level, which allows the chain of command structure to determine the relative importance of each deficiency.

Deficiencies in management controls and noncompliance with laws, regulations, and directives will be corrected by the responsible manager. Managers will report to the Board corrective actions initiated as well as those planned for future periods.

The extent to which corrective actions are tracked by the Board will be commensurate with the severity of the deficiency. Corrective action plans will be developed for all deficiencies included in the FMFIA report, and progress against plans will be periodically assessed and reported to the Board. The Board will track progress to ensure timely and effective results. For deficiencies that are not included in the FMFIA report, corrective action plans will be developed and tracked internally at the appropriate level.

NMB will conduct an annual review to evaluate whether corrective actions have been implemented and deemed adequate to prevent such deficiencies from occurring in the future. Adequate information on corrective actions shall be obtained and documented to make a complete and accurate reporting of corrective actions in the FMFIA report.

A determination that a deficiency has been corrected will be made only when sufficient corrective actions have been taken and the desired results achieved. This determination will be in writing for items included in the FMFIA report, and along with other appropriate documentation, should be available for review by appropriate officials.

The ability of managers to formulate and implement corrective actions will be one of their key performance measures. The Board will initiate actions reprimanding managers who continuously fail to carry out corrective actions necessary to reduce risk in vulnerable areas.



## ENCLOSURE B



### STATISTICAL SUMMARY OF PERFORMANCE

#### Report pursuant to Section 2 of the Integrity Act: Internal Control System

Overall compliance: Yes

Number of Material Weaknesses:

Period Reported	Reported	Corrected	Pending
Prior Years	0	N/A	0
2002 report	0	N/A	0
2003 report	0	N/A	0
2004 report	0	N/A	0
2005 report	0	N/A	0
2006 report	0	N/A	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

#### Pending Material Weaknesses (by function):

Category	Number	Year First Reported
Program management	0	N/A
Functional management	0	N/A
Procurement	0	N/A
Grant management	0	N/A
Personnel & organizational management	0	N/A
ADP security	0	N/A
Payment systems and cash management	0	N/A
Loan management and debt collection	0	N/A
Property and inventory management	0	N/A
<b>Total</b>	<b>0</b>	<b>N/A</b>

#### Report pursuant to Section 4 of the Integrity Act: Systems and Conformance

Overall compliance: Yes

Management Systems:

Existing Systems	Total	In Conformance
Prior years	1	1
2002 report	1	1
2003 report	1	1
2004 report	1	1
2005 report	1	1
2006 report	1	1
<b>Total</b>	<b>1</b>	<b>1</b>

#### Pending Nonconformance:

Material nonconformance	Reported	Corrected	Pending
Prior Years	0	N/A	0
2002 report	0	N/A	0
2003 report	0	N/A	0
2004 report	0	N/A	0
2005 report	0	N/A	0
2006 report	0	N/A	0
<b>Total</b>	<b>0</b>	<b>N/A</b>	<b>0</b>

#### Report pursuant to Section 4 of the Integrity Act: Financial Management Systems

Overall Compliance: Yes, Achieved 1988

Number of Material Weaknesses:

Period Reported	Reported	Corrected	Pending
FY 06			
Prior Years	0	N/A	0
2002 report	0	N/A	0
2003 report	0	N/A	0
2004 report	0	N/A	0
2005 report	0	N/A	0
2006 report	0	N/A	0
<b>Total</b>	<b>0</b>	<b>N/A</b>	<b>0</b>

#### Pending Nonconformance:

Period Report	Number	Year First Reported
FY 06		
General ledger control	0	N/A
Interfaces	0	N/A
Data accuracy, timeliness, comparability, usefulness	0	N/A
Property	0	N/A
Cash management	0	N/A
Receivables	0	N/A
Program costs	0	N/A
Payroll	0	N/A
Systems documentation	0	N/A
Audit trails, security	0	N/A
Other	0	N/A
<b>Total</b>	<b>0</b>	<b>N/A</b>

## ENCLOSURE C

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### DESCRIPTION OF THE CONDUCT OF THE INTERNAL CONTROL EVALUATION PROCESS

The National Mediation Board (NMB) is a small independent agency with a total staff of 48 and a FY 2006 budget of approximately \$11,511,720. Therefore, selection of assessable units was a relatively simple process.

The agency is responsible for the following functions, each of which was determined to be an assessable unit:

- Mediation
- Alternative Dispute Resolution
- Representation
- Arbitration
- Support Services

The managers of each of these areas or programs were responsible for evaluating the above units for vulnerability to fraud, waste, and abuse of federal resources.

Each manager submitted a report to the agency's internal control committee. The committee, in turn, evaluated the various reports and submitted its report to the Board. The Board conducted a review of the reports. The Board consolidated the data from the reports and the independent auditor's report on internal control structure prepared as a result of the Chief Financial Officer Act audit of the financial statements. The annual report is prepared using the consolidated data. The Internal Control Committee monitors the planned action for improvement for the purpose of ensuring that weaknesses have been corrected as intended.

Because the NMB is very small, accounting and payments are very tightly controlled and carefully monitored. The NMB pays all bills promptly, in accordance with the Prompt Payment Act. In FY 2006, no penalty fees were paid for late payments.

As reported to the General Accounting Office, the NMB has monitored payments and has found no erroneous payments. It should be noted that the Board does not administer any benefits or grant programs. NMB does administer a student loan program. Four employees were accepted in the program in FY 2006.

# National Railroad Adjustment Board

**RICHARD K. RADEK** CHAIRMAN

**MARTIN W. FINGERHUT** VICE CHAIRMAN



## NRAB BOARD MEMBERS

### First Division

Richard K. Radek  
*Chairman*  
Martin W. Fingerhut  
*Vice Chairman*

Marcus J. Ruef  
Douglas W. Davidson  
John W. Babler  
Joseph P. Horbury, Sr.  
William B. Murphy  
Charles R. Wise  
Kim N. Thompson

### Second Division

Alexander M. Novakovic  
*Chairman*  
John P. Lange  
*Vice Chairman*

Jay R. Cronk  
Mark Filipovic  
Daniel S. Anderson  
John Thacker  
Michael Bowgren  
John F. Ingham  
Russ Parks  
Thomas N. Tancula  
H. Glen Williams  
Richard S. Bauman

### Third Division

Roy C. Robinson  
*Chairman*  
Michael C. Lesnik  
*Vice Chairman*

Charlie A. McGraw  
David W. Volz  
John F. Hennecke  
LaVerne D. Miller  
Issac R. Monroe  
Thomas Rohling  
John S. Morse  
William R. Miller  
Stephen Watson

### Fourth Division

Gary J. Campbell  
*Chairman*  
Bjarne R. Henderson  
*Vice Chairman*

James R. Cumby  
N. Ray Cobb  
Jack S. Gibbins  
Patricia A. Madden

## CASES DOCKETED AND CLOSED

### All Divisions

New Cases	874
Closed Cases	663

# National Railroad Adjustment Board

**RICHARD K. RADEK** CHAIRMAN

**MARTIN W. FINGERHUT** VICE CHAIRMAN

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## REFEREES

### First Division

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Edwin H. Benn  
James E. Conway  
Dana E. Eischen  
Charles P. Fishbach  
Robert G. Richter  
Barry Simon  
David P. Twomey  
Elizabeth C. Wesman

### Second Division

---

Raymond McAlpin  
Carol J. Zamperini

### Third Division

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Edwin H. Benn  
Danielle L. Hargrove  
Ann S. Kenis  
Jonathan I. Klein  
Martin H. Malin  
James E. Mason  
Margo R. Newman  
Robert M. O'Brien  
Joan Parker  
Robert G. Richter  
Gerald E. Wallin  
Elizabeth C. Wesman  
Mary E. Zusman

### Fourth Division

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Donald A. Hampton  
Gerald E. Wallin

# Section 3 Tribunals



## No. of Boards

Public Law Board	103
Special Boards of Adjustment	5
Arbitration Board	2
Total	110

## 1. PUBLIC LAW BOARDS, SPECIAL BOARDS OF ADJUSTMENT AND ARBITRATION BOARDS

### 1A. Carriers

Alabama State Dock  
 Belt Railway Company of Chicago  
 Birmingham Southern Railroad Company  
 Buffalo & Pittsburgh Railroad, Inc.  
 Burlington Northern Santa Fe Railway Company  
 Canadian National  
 Colorado & Wyoming Railway Company  
 Consolidated Rail Corporation  
 CSX Transportation, Inc.  
 Delaware and Hudson Railway Company  
 Dakota, Minnesota & Eastern Railway  
 Duluth, Missabe, Iron Railway  
 Elgin, Joliet & Eastern Railway  
 Florida East Coast Railroad  
 Illinois Central Railroad  
 Indiana Harbor Belt Railroad  
 Indiana Rail Road  
 Iowa, Chicago & Eastern Railroad  
 Iowa Interstate Railway  
 Kansas City Southern  
 Kyle Railroad Company  
 Long Island Rail Road  
 Manufacturers Railway Company  
 Massachusetts Bay Commuter Railroad  
 Metro North Commuter Rail  
 Montana Rail Link  
 National Carrier Conference Committee  
 National Railroad Passenger Corporation (AMTRAK)  
 New Jersey Transit Authority  
 New York Susquehanna & Western Railway  
 Norfolk Southern Corporation  
 Northeast Illinois Regional Commuter  
 Northern Illinois Regional Commuter Railroad  
 Northern Indiana Commuter Transportation District  
 Paducah & Louisville Railroad  
 Port Authority of New York and New Jersey  
 Southeastern Pennsylvania Transportation Authority  
 South Buffalo Railway Company  
 Union Pacific Railroad Company  
 Union Railroad Company

# Section 3 Tribunals

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## **1B. Unions**

Association of Commuter Rail Employees  
American Train Dispatchers Association  
Brotherhood of Locomotive Engineers & Trainmen-IBT  
Brotherhood of Maintenance of Way Employes-IBT  
Brotherhood of Railroad Signalmen  
International Association of Machinists & Aerospace Workers  
International Brotherhood of Electrical Workers  
International Brotherhood of Blacksmith & Boilermakers  
International Longshoremen's Association  
International Railway Supervisors Association  
National Conference of Firemen and Oilers, SEIU  
Sheet Metal Workers International Association  
Transportation Communications International Union  
Transport Workers Union of America  
United Steel Workers of America  
United Transportation Union

## **1C. Arbitrators**

Neil Bernstein  
Steven M. Bierig  
John R. Binau  
Dennis J. Campagna  
Joseph A. Cassidy, Jr.  
Brian Clauss  
James E. Conway  
John B. Criswell  
Barbara Deinhardt  
Rodney E. Dennis  
Francis J. Domzalski  
John Easley  
Howard C. Edelman  
Charles P. Fischbach  
Brady Gadberry  
Charlotte Gold  
Elliott H. Goldstein  
Michael D. Gordon  
Simon P. Gourdine  
Don A. Hampton  
Danielle L. Hargrove  
Robert L. Hicks  
Joan Ilivicky  
Michael Jordan  
Ann S. Kenis  
Lisa Kohn  
Stanley Kravit  
Frank T. Lynch

# Section 3 Tribunals



Martin H. Malin  
Herbert L. Marx, Jr.  
James E. Mason  
Dennis McGillian  
Peter R. Meyers  
Stanley Michelstettler  
Ron Mitchell  
James E. Nash  
Elizabeth Neumeier  
Robert M. O'Brien  
Joan Parker  
Robert Perkovich  
Robert E. Peterson  
Francis X. Quinn  
Robert G. Richter  
Thomas N. Rinaldo  
Sean J. Rogers  
Lynette A. Ross  
David J. Rutkowski  
Barry E. Simon  
Josef P. Sirefman  
Lamont Stallworth  
Edward L. Suntrup  
Berry K. Tucker  
David P. Twomey  
M. David Vaughn  
Gerald E. Wallin  
Rex Wiant  
Elizabeth C. Wesman  
Carol J. Zamperini  
Jacalyn J. Zimmerman  
Marty E. Zusman

## 2. LABOR PROTECTIVE PROVISIONS

### 2A. Carrier

Norfolk Southern Railway Company

### 2B. Union

Brotherhood of Maintenance of Way Employes Division of IBT

### 2C. Arbitrator

John LaRocco

## 3. UNION SHOPS

N/A

# Caseload Tables

## 1. CASES RECEIVED AND CLOSED OUT

	FY-2006	FY-2005	FY-2004	FY-2003	FY-2002	FY-2001	Average 2001-05
<b>Mediation</b>							
Start-pending	71	56	63	51	66	61	59.4
New	37	58	41	55	44	70	53.6
Sum	108	114	104	106	110	131	113.0
Closed	33	43	48	43	59	65	51.6
End-pending	75	71	56	63	51	66	61.4
<b>ADR</b>							
Start-pending	18	15	16	18	21	28	19.6*
New	68*	27	41	27	48	45	37.6*
Sum	86*	42	57	45	69	73	57.2*
Closed	69*	24	42	29	51	52	39.6*
End-pending	17*	18	15	16	18	21	17.6*
<b>Representation</b>							
Start-pending	0	1	4	4	8	15	6.4
New	46	32	60	55	66	66	55.8
Sum	46	33	64	59	74	81	62.2
Closed	46	33	63	55	70	73	58.8
End-pending	0	0	1	4	4	8	3.4
<b>Arbitration</b>							
Start-pending	4,581**	4,910	5,136	6,002	5,819	7,189	5,811.2
New	5,537	4,839	4,705	4,295	4,990	2,944	4,354.6
Sum	10,118	9,749	9,841	10,297	10,809	10,133	10,165.8
Closed	5,454	4,127	4,931	5,161	4,807	4,314	4,668.0
End-pending	4,664	5,622	4,910	5,136	6,002	5,819	5,497.8

\* ADR caseload counts include OP and OP-ODR cases starting in FY-2006.

\*\* Caseload adjusted based on an annual NMB/parties case audit.



# Caseload Tables



## 2. REPRESENTATION CASE DISPOSITION BY CRAFT OR CLASS, EMPLOYEES INVOLVED AND PARTICIPATING

	Number of Cases	Number of Crafts or Classes	Number of Employees Involved	Number of Employees Participating
<b>Railroads</b>				
Certifications	11	11	261	198
Dismissals	6	6	681	295
Totals	17	17	942	493
<b>Airlines</b>				
Certifications	9	9	10,120	7,727
Dismissals	20	20	2,981	1,097
Totals	29	29	13,101	8,824
<b>Totals</b>				
Railroads and Airlines	46	46	14,043	9,317

# Caseload Tables

## 3. NUMBER OF CASES CLOSED BY MAJOR GROUPS OF EMPLOYEES

	Total Cases	Representation Cases	Mediation Cases
<b>Railroads</b>			
Clerical Office, Station and Storehouse Employees	1	1	0
Locomotive Engineers	2	0	2
Maintenance of Way Employees	4	2	2
Signalmen	1	1	0
Switchmen	1	0	1
Train Dispatchers	1	1	0
Train and Engine Service Employees	11	11	0
Train and Engine Service Employees and Maintenance Employees	1	0	1
Train, Engine and Yard Service Employees	1	1	0
<b>Railroad Total</b>	<b>23</b>	<b>17</b>	<b>6</b>
<b>Airlines</b>			
Fleet and Passenger Service Employees	1	1	0
Fleet Service Employees	3	2	1
Flight Attendants	8	3	5
Flight Deck Crew Members	3	2	1
Flight Dispatchers	3	2	1
Flight Simulator Engineers	1	1	0
Flight Simulator Technicians	2	0	2
Flight Crew Training Instructors	1	1	0
Ground School Instructors	1	1	0
Maintenance Training Specialists	1	1	0
Mechanics and Related Employees	10	5	5
Office Clerical Fleet & Passenger	1	0	1
Passenger Service Employees	3	2	1
Pilots	12	5	7
Ramp and Store	2	0	2
Security Officers	1	0	1
Stock and Stores Employees	3	3	0
<b>Airline Total</b>	<b>56</b>	<b>29</b>	<b>27</b>
<b>Grand Total, Railroads and Airlines</b>	<b>79</b>	<b>46</b>	<b>33</b>

# Caseload Tables



## 4. NUMBER OF CRAFT OR CLASS DETERMINATIONS AND NUMBER OF EMPLOYEES INVOLVED IN REPRESENTATION CASES, BY MAJOR GROUPS OF EMPLOYEES

	Number of Cases	Number of Craft or Class Determinations	Number of Employees	Percent of Employees Involved
<b>Railroads</b>				
Clerical Office, Station and Storehouse Employees	1	1	0	0
Conductors	0	0	0	0
Electrical Workers	0	0	0	0
Locomotive Engineers	0	0	0	0
Locomotive Firemen and Hostlers	0	0	0	0
Locomotive Maintenance Employees	0	0	0	0
Machinists	0	0	0	0
Maintenance of Way Employees	2	2	18	—
Sheet Metal Workers	0	0	0	0
Signalmen	1	1	10	—
Train Dispatchers	1	1	253	1
Train and Engine Service Employees	11	11	181	1
Train and Engine Service Employees and Maintenance Employees	0	0	0	0
Train, Engine and Yard Service Employees	1	1	31	—
Yardmasters	0	0	0	0
Combined Groups, Railroad	0	0	0	0
Miscellaneous, Railroad	0	0	0	0
<b>Railroad Total</b>	<b>17</b>	<b>17</b>	<b>493</b>	<b>3%</b>

# Caseload Tables

(TABLE-4 CONTINUED)

	Number of Cases	Number of Craft or Class Determinations	Number of Employees	Percent of Employees Involved
<b>Airlines</b>				
Engineers and Related Employees	0	0	0	0
Fleet and Passenger Service Employees	1	1	850	6
Fleet Service Employees	2	2	0	0
Flight Attendants	3	3	7,106	51
Flight Crew Training Instructors	1	1	0	0
Flight Deck Crew Members	2	2	0	0
Flight Dispatchers	2	2	7	—
Flight Engineers	0	0	0	0
Flight Simulator Engineers	1	1	0	0
Ground School Instructors	1	1	11	—
Maintenance Training Specialists	1	1	0	0
Mechanics and Related Employees	5	5	190	1
Office Clerical Employees	0	0	0	0
Passenger Service Employees	2	2	0	0
Pilots	5	5	627	4
Stock and Stores Employees	3	3	33	—
Combined Groups, Airlines	0	0	0	0
Miscellaneous, Airlines	0	0	0	0
Airline Total	29	29	8,824	63%
<b>Grand Total, Railroads and Airlines</b>	<b>46</b>	<b>46</b>	<b>9,317</b>	<b>66%</b>

1. Percent listing for each group represents the percentage of the 14,043 employees involved in all railroad and airline cases during fiscal year 2006.  
(-) Less than one percent.

# Caseload Tables



## 5. NUMBER OF CRAFTS OR CLASSES CERTIFIED AND THE PERCENT OF EMPLOYEES INVOLVED IN VARIOUS TYPES OF REPRESENTATION CASES

	National Organizations			Local Unions and/or Individuals			Totals		
	Craft or Class	Employees Number	Involved Percent	Craft or Class	Employees Number	Involved Percent	Craft or Class	Employees Number	Involved Percent
<b>Railroads</b>									
Representation Acquired:									
Elections	9	137	—	0	0	0	9	137	—
Proved Authorizations	0	0	0	0	0	0	0	0	0
Representation Changed:									
Elections	1	30	—	1	31	—	2	61	—
Proved Authorizations	0	0	0	0	0	0	0	0	0
Representation Unchanged:									
Elections	0	0	0	0	0	0	0	0	0
Proved Authorizations	0	0	0	0	0	0	0	0	0
<b>Total, Railroads</b>	<b>10</b>	<b>167</b>	<b>1</b>	<b>1</b>	<b>31</b>	<b>—</b>	<b>11</b>	<b>198</b>	<b>1</b>
<b>Airlines</b>									
Representation Acquired:									
Elections	8	683	5	0	0	0	8	683	5
Proved Authorizations	0	0	0	0	0	0	0	0	0
Representation Changed:									
Elections	1	7,044	50	0	0	0	1	7,044	50
Proved Authorizations	0	0	0	0	0	0	0	0	0
Representation Unchanged:									
Elections	0	0	0	0	0	0	0	0	0
Proved Authorizations	0	0	0	0	0	0	0	0	0
<b>Total, Airlines</b>	<b>9</b>	<b>7,727</b>	<b>55</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>7,727</b>	<b>55</b>
<b>Total, Combined Railroads and Airlines</b>	<b>19</b>	<b>7,894</b>	<b>56</b>	<b>1</b>	<b>31</b>	<b>—</b>	<b>20</b>	<b>7,925</b>	<b>56</b>

Percent listing for each group represents the percentage of the 14,043 employees involved in all rail and airline cases in fiscal year 2006.  
 (—) Less than one percent.

Note: These figures do not include cases that were withdrawn or dismissed. Because of rounding, sums of individual items may not equal totals.

# Caseload Tables

## 6. STRIKES IN THE AIRLINE INDUSTRY

Carrier	Union	Craft and Class	Strike began	Strike ended	Duration (days)
Northwest Airlines <sup>1</sup>	AMFA	Mechanics & Related	8-20-05	10-9-06	416
World Airways	IBT	Pilots	1-28-06	2-5-06	9
Petroleum Helicopters <sup>2</sup>	OPEIU	Pilots	9-20-06	–	–

**1. Northwest continued flying during the strike; a Tentative Agreement potentially ending the strike was reached on October 9, 2006, after a previous agreement was rejected by the union's membership in December, 2005.**

**2. Changed its corporate name to PHI, Inc.**

## 7. STRIKES IN THE RAILROAD INDUSTRY

None

## 8. RLA SECTION 10 PRESIDENTIAL EMERGENCY BOARDS

None

## 9. RLA SECTION 9A PRESIDENTIAL EMERGENCY BOARDS

PEB# Carrier	Union	Created	Reported
239 Southeastern Penn. Transit Auth. (SEPTA)	BLET	07-03-06	09-15-06

# Case Record



## 1A. AIRLINE MEDIATION CASES DOCKETED

Carrier	Union	Craft/Class
Airbus North American	TWU	Flight Simulator Technicians
Amerijet International	IBT	Flight Engineers
Amerijet International	IBT	Pilots
ASTAR Air Cargo	ALPA	Pilots
Air Transport International	IBT	Pilots
Bahamas Air	IAM	Mechanics & Related
British West Indies International Airways	IAM	Office, Clerical, Fleet & Passenger Service Employees
EL Al Israel Airlines	IAM	Mechanics & Related
Evergreen Airlines International	TAG	Pilots
Federal Express	ALPA	Flight Deck Crew Members
Great Lakes Aviation	IBT	Flight Attendants
Great Lakes Aviation	IBT	Flight Dispatchers
Mesaba Airlines	AFA/CWA	Flight Attendants
Piedmont Airlines	IBT	Mechanics & Related
Pinnacle Airlines	ALPA	Pilots
Saudi Arabian Airlines	IAM	Flight Dispatchers

# Case Record

## 1B. RAILROAD MEDIATION CASES DOCKETED

Carrier	Union	Craft/Class
Amtrak	TCU	Supervisors of Car Department
Delaware & Hudson Railway	UTU	Trainmen
Dakota, Minnesota & Eastern Railroad	UTU	Train & Engine Service Employees
Illinois Central Railroad	SMWIA	Sheet Metal Workers
Indiana Harbor Belt Railroad	UTU	Switchmen
Louisiana & North west Railroad	IAM	Machinists
New Jersey Transit Rail	IAM	Machinists
New Jersey Transit Rail	IBEW	Electrical Supervisors
New Jersey Transit Rail	IBEW	Electrical Workers
New Jersey Transit Rail	NCFO/SEIU	Firemen & Oilers
New Jersey Transit Rail	SMWIA	Sheet Metal Workers
New Jersey Transit Rail	TCU	Clerks
New Jersey Transit Rail	TCU	Telegraphers
New Jersey Transit Rail	TCU/TWU	Carmen
New Jersey Transit Rail	UTU	Conductors
Panhandle Northern Railroad	BLET	Train & Engine Service Employees
Port Authority Trans Hudson	UTU	Switchmen
South Buffalo Railway	UTU	Conductors
Soo Line Railroad	BMWED	Maintenance of Way Employees
Wheeling & Lake Erie Railroad	BLET	Train & Engine Service Employees
York Railway	BMWED	Maintenance of Way Employees



# Case Record



## 1C. AIRLINE MEDIATION CASES CLOSED

Carrier	Union	Craft/Class
Airbus North America	TWU	Flight Simulator Technicians
Air Methods	OPEIU	Pilots
Alaska Airlines	AFA-CWA	Flight Attendants
Alaska Airlines	IAM	Passenger Service Employees
Alaska Airlines	IAM	Ramp and Store Employees
American Eagle Airlines	AFA-CWA	Flight Attendants
ATA Airlines	AMFA	Mechanics and Related
Continental Airlines	IAM	Flight Attendants
ExpressJet Airlines	IAM	Flight Attendants
Great Lakes Aviation	IBT	Pilots
Horizon Airlines	AMFA	Mechanics and Related
Independence Airlines	AMFA	Mechanics and Related
NetJets Aviation	IBT	Flight Attendants
NetJets Aviation	IBT	Mechanics and Related
NetJets Aviation	IBT	Pilots
Northwest Airlines	IAM	Flight Simulator Technicians
Northwest Airlines	IAM	Office, Clerical, Fleet and Passenger Service
Northwest Airlines	IAM	Ramp and Store Employees
Northwest Airlines	IAM	Security Officers
Sun Country Airlines	ALPA	Pilots
Trans Air	IBT	Pilots
United Parcel Service	IBT	Flight Deck Crew Members
United Parcel Service	IBT	Mechanics and Related
USA3000 Airlines	IBT	Pilots
World Airways	IBT	Pilots
World Airways	TWU	Flight Dispatchers
Worldwide Flight Services	TWU	Fleet Service Employees

# Case Record

## 1D. RAILROAD MEDIATION CASES CLOSED

Carrier	Union	Craft/Class
Florida East Coast Railway	BMWED	Maintenance of Way Employees
Indiana Harbor Belt Railroad	UTU	Switchmen
Long Island Railroad	BLET	Locomotive Engineers
Republic Nimishillian & Tuscarawas Railway	USWA	Train & Engine Service Employees
Southeastern Pennsylvania Transit Authority	BLET	Locomotive Engineers
York Railway	BMWED	Maintenance of Way Employees

## 2A. ADR CASES DOCKETED

Case Type	Entity	Union	Craft/Class
F	Continental Micronesia	IAM	Flight Attendants
F-ODR	Alabama State Docks	UTU	Train & Engine Service Employees
F-ODR	CSX Transportation	–	–
GM	Airborne Express	IBT	Flight Deck Crew Members
GM	Chautauqua Airlines	IBT	Flight Attendants
GM	Horizon Airlines	IBT	Pilots
GM	Mesa Airlines	ALPA	Pilots
GM	US Airways	AFA-CWA	Flight Attendants
GM-ODR	Norfolk Southern Railroad	ATDA	Train Dispatchers
OP	NetJets	IBT	Pilots
OP	CAP	–	Pilots
OP	–	UTU	–
OP	–	IBEW	Electrical Workers
OP	AIRC	–	–
OP	Genesee & Wyoming RR	–	–
OP	–	UTU	–
OP	–	UTU	–
OP	ACR	–	–
OP	CSXT	–	–
OP	eSociety	–	–
OP	U.S. State Department	–	–
OP	–	IAM	–
OP	PSA Air	AFA	–
OP	–	BLET	Locomotive Engineers
OP-ODR	–	–	Arbitrator
OP-ODR	–	UTU	–
OP-ODR	Alabama State Docks	–	–
OP-ODR	Alabama State Docks	UTU	–
OP-ODR	LIRR	–	–

# Case Record



## ADR CASES DOCKETED (2A CONTINUED)

Case Type	Entity	Union	Craft/Class
OP-ODR	–	TCU	–
OP-ODR	NARR	–	Arbitrator
OP-ODR	–	TCU	–
OP-ODR	NARR	–	Arbitrator
OP-ODR	CSX	BLE	Arbitrator
OP-ODR	–	–	Arbitrator
OP-ODR	–	–	Arbitrator
OP-ODR	Union RR	–	–
OP-ODR	PATH	–	–
OP-ODR	Union RR	USW	Arbitrator
OP-ODR	Springfield Terminal	–	–
OP-ODR	–	–	Arbitrator
OP-ODR	–	UTU	–
OP-ODR	PATH	–	–
OP-ODR	KCS	–	–
OP-ODR	KCS	UTU	Arbitrator
OP-ODR	–	RITU	–
OP-ODR	NJ Transit	–	–
OP-ODR	–	UTU	–
OP-ODR	Amtrak	–	–
OP-ODR	CSX	–	–
OP-ODR	–	UTU	Arbitrator
OP-ODR	NJ Transit	–	–
OP-ODR	CSX	UTU	Arbitrator
OP-ODR	NJT	UTU	–
OP-ODR	–	–	Arbitrator
OP-ODR	NRAB, Div 3	–	–
OP-ODR	NRLC	–	–
T	Airborne Express	IBT	Flight Deck Crew Members
T	American Airlines	TWU	Flight Dispatchers
T	American Eagle Airlines	AFA-CWA	Flight Attendants
T	Chautauqua Airlines	IBT	Flight Attendants
T	ExpressJet	–	Mechanics and Related
T	Horizon Airlines	IBT	Pilots
T	NetJets Aviation	IBT	Pilots
T	PSA Airlines	ALPA	Pilots
T	US Airways	AFA-CWA	Flight Attendants
T	Alabama State Docks	UTU	Train & Engine Service Employees
T	Norfolk Southern Railroad	ATDA	Train Dispatchers

# Case Record

## 2B. ADR CASES CLOSED

Case Type	Entity	Union	Craft/Class
F	CSX Transportation	BMWED	Maintenance of Way Employees
F	American Airlines	APA	Pilots
F	Astar Air Cargo	ALPA	Pilots
F	Continental Micronesia	IAM	Flight Attendants
F	United Airlines	IFPTE	Engineers & Related
F-ODR	CSX Transportation	—	—
GM	Alleghany Airlines	AFA-CWA	Flight Attendants
GM	Horizon Airlines	IBT	Pilots
GM	Independence Airlines	ALPA	Pilots
GM	Mesa Airlines	ALPA	Pilots
GM	United Parcel Service	IPA	Flight Deck Crew Members
OP	NetJets	IBT	Pilots
OP	CAP	—	Pilots
OP	—	UTU	—
OP	—	IBEW	Electrical Workers
OP	AIRC	—	—
OP	Genesee & Wyoming RR	—	—
OP	—	UTU	—
OP	—	UTU	—
OP	ACR	—	—
OP	CSXT	—	—
OP	eSociety	—	—
OP	U.S. State Department	—	—
OP	—	IAM	—
OP	—	BLET	Locomotive Engineers
OP-ODR	—	—	Arbitrator
OP-ODR	—	UTU	—
OP-ODR	Alabama State Docks	—	—
OP-ODR	Alabama State Docks	UTU	—
OP-ODR	LIRR	—	—
OP-ODR	—	TCU	—
OP-ODR	NARR	—	Arbitrator
OP-ODR	—	TCU	—
OP-ODR	NARR	—	Arbitrator
OP-ODR	CSX	BLE	Arbitrator
OP-ODR	—	—	Arbitrator
OP-ODR	—	—	Arbitrator
OP-ODR	Union RR	—	—
OP-ODR	PATH	—	—
OP-ODR	Union RR	USW	Arbitrator
OP-ODR	Springfield Terminal	—	—
OP-ODR	—	—	Arbitrator
OP-ODR	—	UTU	—
OP-ODR	PATH	—	—

# Case Record



## ADR CASES CLOSED (2B CONTINUED)

Case Type	Entity	Union	Craft/Class
OP-ODR	KCS	–	–
OP-ODR	KCS	UTU	Arbitrator
OP-ODR	–	RITU	–
OP-ODR	NJ Transit	–	–
OP-ODR	–	UTU	–
OP-ODR	Amtrak	–	–
OP-ODR	CSX	–	–
OP-ODR	–	UTU	Arbitrator
OP-ODR	NJ Transit	–	–
OP-ODR	CSX	UTU	Arbitrator
OP-ODR	NJT	UTU	–
OP-ODR	–	–	Arbitrator
OP-ODR	NRAB, Div 3	–	–
OP-ODR	NRLC	–	–
T	–	BLET	Locomotive Engineers
T	Alabama State Docks	UTU	Train & Engine
T	Norfolk Southern	ATDA	Train Dispatchers
T	Airborne Express	IBT	Pilots
T	American Airlines	TWU	Flight Dispatchers
T	American Eagle Airlines	AFA-CWA	Flight Attendants
T	Chautauqua Airlines	IBT	Flight Attendants
T	ExpressJet	–	Mechanics and Related
T	NetJets Aviation	IBT	Pilots
T	PSA Airlines	ALPA	Pilots
T	US Airways	AFA-CWA	Flight Attendants

# Case Record

## 3A. AIRLINE REPRESENTATION CASES DOCKETED

Carrier	Union	Craft/Class
Air Logistics, LLC	OPEIU	Mechanics and Related
AirTran Airways	IBT	Fleet and Passenger Service
American Eagle Airlines	TWU	Ground School Instructors
Cape Air (Hyannis Air Service, Inc.)	IBT	Pilots
Continental Airlines, Inc.	TWU	Fleet Service Employees
Empire Aero Center, Inc.	USWA	Mechanics and Related
Flight Options, LLC	IBT	Pilots
Frontier Airlines, Inc.	IBT	Stock Clerks
Frontier Airlines, Inc.	FFAA-IBT	Flight Attendants
GoJet Airlines, LLC	IBT	Pilots
GoJet Airlines, LLC	IBT	Flight Attendants
Gulfstream International Airlines, Inc.	IAM	Flight Attendants
Gulfstream International Airlines, Inc.	IAM	Fleet Service
Jet Blue Airways Corporation	IAM	Fleet Service
Jet Linx Aviation Corp.	JLPG-Individual	Pilots
Northwest Airlines, Inc.	PFAA/AFA-CWA	Flight Attendants
Piedmont Airlines	IBT	Stock Clerks
Saudi Arabian Airlines Corp.	IAM	Passenger Service
Shuttle America Corporation	IBT-SAPA	Flight Deck Crew Members
Shuttle America Corporation	IBT-SAPA	Flight Deck Crew Members
Spirit Airlines	IAM	Mechanics and Related
TSA/GoJet Airlines	IBT-ALPA	Pilots
United Parcel Service	IBT	Mechanics and Related
US Airways/America West	IAM	Fleet Service
US Airways/America West	IAM	Mechanics and Related
US Airways/America West	IAM	Maintenance Training Specialists
US Airways/America West	ACSEA	Passenger Service
US Airways/America West	TWU	Flight Dispatchers
US Airways/America West	TWU	Flight Crew Training Instructors
US Airways/America West	TWU	Flight Simulator Engineers
US Airways/America West	IAM-IBT	Stock Clerks

# Case Record



## 3B. RAILROAD REPRESENTATION CASES DOCKETED

Carrier	Union	Craft/Class
Appalachian & Ohio Railroad, Inc.	UTU	Train and Engine Service Employees
Cedar River Railroad	BLET	Train and Engine Service Employees
Central Oregon & Pacific Railroad, Inc.	BLET	Train and Engine Service Employees
Georgia & Florida Railway	UTU	Train and Engine Service Employees
Huron & Eastern Railway Co., Inc.	BLET	Train and Engine Service Employees
Montreal, Maine & Atlantic Railway, Ltd.	BLET	Train and Engine Service Employees
Nebraska, Kansas & Colorado Railway, Inc.	UTU	Train and Engine Service Employees
New York, Susquehanna & Western Railway	BRS	Signalmen
Panhandle Northern Railroad	BLET	Train and Engine Service Employees
Permian Basin Railways d/b/a West Texas & Lubbock and Texas & New Mexico Railroad	BMWED-IBT	Maintenance of Way Employees
Sand Springs Railway Co.	TCU	Clerks
South Kansas and Oklahoma Railroad	BMWE-IBT	Maintenance of Way Employees
Timber Rock Railroad	UTU	Train and Engine Service Employees
Union Pacific Railroad	ATDA	Train Dispatchers
Union Pacific Railroad	UTU-BLET	Train and Engine Service Employees

# Case Record

## 3C. AIRLINE REPRESENTATION CASES CLOSED

Carrier	Union	Craft/Class Disposition
Air Logistics, LLC	OPEIU	Mechanics and Related Dismissal
AirTran Airways	IBT	Fleet and Passenger Service Dismissal
American Eagle Airlines	TWU	Ground School Instructors Certification
Cape Air (Hyannis Air Service, Inc.)	IBT	Pilots Certification
Empire Aero Center, Inc.	USWA	Mechanics and Related Dismissal
Flight Options, LLC	IBT	Pilots Certification
Frontier Airlines	IBT	Stock Clerks Certification
GoJet Airlines, LLC	IBT	Pilots Certification
GoJet Airlines, LLC	IBT	Flight Attendants Dismissal
Gulfstream Int'l Airlines	IAM	Flight Attendants Certification
Jet Blue Airways Corp.	IAM	Fleet Service Dismissal-ISI
Jet Linx Aviation Corp.	JLPG-IND.	Pilots Dismissal
Northwest Airlines, Inc.	AFA-CWA	Flight Attendants Certification
Piedmont Airlines	IBT	Stock Clerks Certification
Ryan Int'l Airlines	TWU	Flight Dispatchers Certification
Saudi Arabian Airlines	IAM	Passenger Service Dismissal-WDI
Shuttle America Corp.	IBT-SAPA	Flight Deck Crew Members Administratively Closed
Shuttle America Corp.	IBT-SAPA	Flight Deck Crew Members Dismissal-WDI
Spirit Airlines	IAM	Mechanics and Related Dismissal
TSA/GoJet Airlines	IBT-ALPA	Pilots FUI
United Parcel Service	IBT	Mechanics and Related FUI-Dismisssal
US Airways/America West	IAM	Maintenance Training Specialists Certification
US Airways/America West	ACSEA	Passenger Service FUI-Determination of Cert.
US Airways/America West	IAM	Fleet Service Employees FUI-Determination of Cert.
US Airways/America West	TWU	Flight Dispatchers FUI-Determination of Cert.
US Airways/America West	TWU	Flight Crew Training Instructors FUI-Determination of Cert.
US Airways/America West	TWU	Flight Simulator Engineers FUI-Determination of Cert.
US Airways/America West	IAM	Mechanics and Related FUI-Determination of Cert.
US Airways/America West	IAM	Stock Clerks FUI-Determination of Cert.



# Case Record



## 3D. RAILROAD REPRESENTATION CASES CLOSED

Carrier	Union	Craft/Class	Disposition
Alabama & Gulf Coast Railway, LLC	UTU	Train and Engine Service	Certification
Alabama & Tennessee River Railway	UTU	Train and Engine Service	Certification
Appalachian & Ohio Railroad	UTU	Train and Engine Service	Dismissal
Cedar River Railroad	BLET	Train and Engine Service	Certification
Central Oregon & Pacific Railroad, Inc.	BLET	Train and Engine Service	Dismissal
Ft. Worth & Western Railroad	Individual	Train, Engine and Yard	Certification
Georgia & Florida Railway	UTU	Train and Engine Service	Certification
Huron & Eastern Railway	BLET	Train and Engine Service	Certification
Montreal, Maine & Atlantic Railway, Ltd.	BLET	Train and Engine Service	Certification
Nebraska, Kansas & Colorado Railway, Inc.	UTU	Train and Engine Service	Certification
New York, Susquehanna & Western Railway	BRS	Signalmen	Certification
Panhandle Northern Railroad	BLET	Train and Engine Service	Certification
Permian Basin Railways d/b/a			
West Texas & Lubbock Railway and	BMWED-		
Texas & New Mexico Railway	IBT	Maintenance of Way	Dismissal-WDI
Sand Springs Railway Co.	TCU	Clerks	Dismissal
South Kansas and Oklahoma Railroad	BMWE-	Maintenance of Way and	
	IBT	Structures Department	Certification
Union Pacific Railroad	ATDA	Train Dispatchers	Dismissal
Union Pacific Railroad	UTU-BLET	Train and Engine Service	Dismissal-WDI

# Glossary

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**Act** The Railway Labor Act

**Agency** The National Mediation Board

**Alternative Dispute Resolution (ADR)** ADR is a process for resolving disputes outside of the judicial system of law. In the venue of the NMB, Alternative Dispute Resolution is the facilitation of interest-based or mutual-interest negotiations and grievance mediation.

**Amendable Contract** Under the Railway Labor Act, collective bargaining agreements become subject-to-change on a specified date, rather than expiring as agreements do under the National Labor Relations Act.

**Arbitration** A type of grievance resolution process where an arbitrator renders a decision, which usually can be appealed judicially only on a very narrow basis such as fraud

**Board** May be one of the following, depending upon the context in which it appears:

National Mediation Board

Presidential Emergency Board

National Railroad Adjustment Board

Special Board of Adjustment

Public Law Board

National Labor Relations Board

**Cabotage** Airline cabotage is the carriage of air traffic that originates and terminates within the boundaries of a given nation by a foreign air carrier.

**CFO Act** Chief Financial Officer's Act

**Class I** A category of the largest U.S. railroads as defined by the Surface Transportation Board

**Collective Bargaining Agreement** A labor contract between a union and a carrier

**Cooling Off Period** A 30-day period of time preceding the right of parties to a collective bargaining dispute to engage in "self help" under the RLA

**Craft or Class** A group of employees deemed by the NMB to share a community of work and interest for the purpose of collective bargaining under the RLA

**Direct Negotiations** Negotiations between the parties to a collective bargaining dispute before or apart from NMB mediation

**E-Business** The conduct of business on the Internet

**Facilitation** A process where a neutral helps the parties in a collective bargaining or grievance dispute use ADR problem-solving methods such as interest-based bargaining or grievance mediation

**Grievances** Complaints of employees or unions arising out of the application or interpretation of collective bargaining agreements

**Grievance Mediation** In the venue of the NMB, using mediation as an alternative to arbitration for resolving grievances



**Impasse** In mediation under the RLA, an impasse is when the NMB determines that further mediation will not resolve a collective bargaining dispute.

**Interest Arbitration** A process, under the RLA, to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations.

**Interest Based Bargaining** A type of negotiations where the parties collaboratively focus on finding solutions to underlying needs or concerns of each party (i.e., the whys) instead of adversatively negotiating specific positions

**Internet Hits** Each file requested by a visitor to an Internet website

**Key Ballot** A special NMB ballot designed to address instances of carrier interference whereby the organization is certified, unless a majority of eligible voters returns votes opposing union representation

**Laboratory Conditions** Conditions to a representation dispute which ensure the independence of labor and management for the purpose of self-organization and the right of employees to freely determine whether they wish to be represented for the purpose of collective bargaining

**Laker Ballot** A special NMB yes/no ballot designed to address instances of carrier interference (first used in a representation case involving Laker Airlines)

**Major Disputes** Disputes between management and a union pertaining to collective bargaining

**Mediation** A type of dispute resolution process where a neutral (i.e., a mediator) facilitates agreement between the parties to a collectively bargaining dispute, vis-a-vis imposing a settlement on the parties

**Minor Disputes** Grievances of employees or unions arising out of the application or interpretation of collective bargaining agreements

**National Handling Mediation** of a collective bargaining dispute where management of several railroads have chosen to negotiate collectively on a national basis

**Online Arbitration** An Arbitration forum and a form of Online Dispute Resolution where hearings are held in virtual, web-based meeting rooms

**Online Dispute Resolution** The application of Internet or web-based technology to resolving disputes

**Open Skies** Agreements that give airlines the right to operate air services from any point in one nation to any point in another nation

**President's Management Agenda** A strategy for improving Federal government, focusing on five areas of management: Human Capital, Competitive Sourcing, Financial Performance, Electronic Government, and Budget/Performance Integration.

**Presidential Emergency Board** A Board established under the Railway Labor Act by the President to investigate and report on an airline or railroad labor dispute

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**Proffer of Arbitration** The step in the process of resolving collective bargaining disputes under the RLA, which follows a determination of impasse by the NMB, whereby the NMB offers binding arbitration to the parties as a method for resolving the dispute

**Public Interest Meetings** Under the RLA, the NMB can intervene in an active collective bargaining dispute at any time in the interest of the general public. Usually, one or both parties to a dispute requests the mediation services of the NMB.

**Representation Dispute** A situation on an airline or railroad where employees in specific carrier-wide workgroup seek to organize for the purpose of collectively bargaining with their employer regarding matters of wages, benefits and working conditions

**Section 3** Section 153 of the RLA pertaining to the National Railroad Adjustment Board

**Section 3 Committee** A group of representatives from freight, regional and commuter railroads and representatives of major rail unions, whose goal is the improvement of resolution of grievances

**Section 6** Section 156 of the RLA pertaining to the changing of wages, rules, hours and working conditions

**Section 7** Section 157 of the RLA pertaining to Arbitration

**Section 9a, Section 159a** Section 159A of the RLA pertaining to Presidential Emergency Boards for certain publicly-funded and operated commuter railroads

**Section 10, Section 160** Section 160 of the RLA pertaining to Presidential Emergency Boards for airlines and railroads other than those covered by Section 9a

**Self Help** The right of a party to a collective bargaining dispute to unilaterally act in its own best interest. A carrier, for example, may lock disputing employees out of the workplace or implement changes in pay, rules and working conditions; and the union, for example, may work specifically as required by its collective bargaining agreement or strike.

**Showing of Interest** In a representation dispute, a majority of employees in a Craft or Class must indicate an interest in being represented for the purpose of collective bargaining by signing authorization cards which are submitted to the NMB by the representative/s of their choosing.

**Status Quo** Situations under the RLA in either collective bargaining or representation disputes where existing pay rates, rules and working conditions cannot be changed unilaterally, pending the resolution of the dispute in question.

**Strike** A work stoppage initiated by a union

**System Boards of Adjustment** An arbitration board pursuant to an agreement by the parties for resolving grievances.

**Telephone Electronic Voting (TEV)** A paperless balloting process using telephones instead of traditional paper ballots

**Work Stoppage** An interruption to the operations of an airline or railroad

**These definitions are meant to provide general understanding only. They do not provide definitive definition regarding any matter before the Board and are not to be construed as legal definitions that may be cited in any administrative, legal or arbitral proceeding.**

# Acronyms



ABA	American Bar Association	JD	Juris Doctor (Doctor of Law)
ABX	Airborne Express	JLPG	Jet Linx Pilots Group
ACR	Association for Conflict Resolution	LIRR	Long Island Railroad
ADR	Alternative Dispute Resolution	LLC	Limited Liability Corporation
ADRS	Alternative Dispute Resolution Services	MCTD	Managers of Central Train Dispatching
AFA	Association of Flight Attendants	NARA	National Archives & Records Administration
AIRCON	Airline Industrial Relations Conference	NARR	National Association of Referees
ALPA	Air Line Pilots Association	NCCC	National Carriers' Conference Committee
ALRA	Association of Labor Relations Agencies	NCFO	National Conference of Firemen and Oilers
AMFA	Aircraft Mechanics Fraternal Association	NJT	New Jersey Transit
AMTRAK	National Railroad Passenger Corporation	NLRA	National Labor Relations Act
APA	Allied pilots Association	NLRB	National Labor Relations Board
ASA	Atlantic Southeast Airlines	NMB	National Mediation Board
ATDA	American Train Dispatchers Association	NPA	National Pilots Association
ATDD	American Train Dispatchers Department, BLE	NRAB	National Railroad Adjustment Board
BLET	Brotherhood of Locomotive Engineers and Trainmen	NSF	National Science Foundation
BMWE/D	Brotherhood of Maintenance of Way Employees	NWA	Northwest Airlines
BNA	Bureau of National Affairs	OA	Office of Administration
BRS	Brotherhood of Railroad Signalmen	ODR	Online Dispute Resolution
CBA	Collective Bargaining Agreement	OLA	Office of Legal Affairs
CFO	Chief Financial Officer	OMB	Office of Management and Budget
CITDR	Center for Information Technology and Dispute Resolution	OP	Outreach and Promotion
CLE	Continuing Legal Education	OPEIU	Office and Professional Employees International Union
CSRS	Civil Service Retirement System	PATH	Port Authority Trans Hudson
CSX/CSXT	CSX Transportation, Inc.	PEB	Presidential Emergency Board
CWA	Communication Workers of America	PFAA	Professional Flight Attendants Association
F-case	Facilitation case	PHI	Petroleum Helicopters, Inc.
FERS	Federal Employees' Retirement System	PLB	Public Law Board
FFAA	Frontier Flight Attendants Association	RITU	Railway Independent Transit Union
FFMIA	Federal Financial Management Improvement Act	RLA	Railway Labor Act
FMFIA	Federal Managers' Financial Integrity Act of 1982	SAPA	Shuttle America Pilots Association
FOP	Fraternal Order of Police – NJ Labor Council	SBA	Special Board of Adjustment or System Board of Adjustment
FTE	Full Time Employee or Full Time Equivalent	SEIU	Service Employees International Union
FUI	Findings Upon Investigation	SEPTA	Southeast Pennsylvania Transit Authority
FY	Fiscal Year	SFFAS	Statements of Federal Financial Accounting Standards
GM	Grievance Mediation	SMWIA	Sheet Metal Workers International Union
GMRA	Government Management Reform Act	T-case	Training case
GPRA	Government Performance and Results Act	TCU/TCIU	Transportation Communications International Union
GSA	General Services Administration	TEV	Telephone Electronic Voting
IADRWG	Inter-agency Dispute Resolution Working Group	TSA	Trans States Airlines
IAM	International Association of Machinists & Aerospace Workers	TSH	Trans States Holdings
IBBB	The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers	TWA	Trans World Airlines
IBEW	International Brotherhood of Electrical Workers	TWU	Transport Workers Union of America
IBT	Int'l Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America	UMASS	University of Massachusetts - Amherst
IDP	Individual Development Plan	UP	Union Pacific Railroad
IFPTE	International Federation of Professional and Technical Engineers	UPS	United Parcel Service
IPA	Independent Pilots Association or Intergovernmental Personnel Act	USW/USWA	United Steelworkers of America
ISI	Insufficient Showing of Interest	UTU	United Transportation Union
IT	Information Technology	VACR	Virginia Association for Conflict Resolution
JCC	Joint Council of Carmen	WDI	Withdrawn During Investigation

## APPENDIX D

# Registry of Board Members

Name	Entered Office	Status	Date
Read Van de Water	12-11-03	Active <sup>1</sup>	–
Harry R. Hoglander	08-06-02	Active <sup>2</sup>	–
Edward J. Fitzmaurice, Jr.	08-02-02	Active <sup>3</sup>	–
Francis J. Duggan	11-22-99	Retired	11-21-03
Magdalena G. Jacobsen	12-01-93	Retired	08-02-02
Ernest W. DuBester	11-15-93	Resigned	08-01-01
Kenneth B. Hipp	05-19-95	Resigned	12-31-98
Kimberly A. Madigan	08-20-90	Resigned	11-30-93
Patrick J. Cleary	12-04-89	Resigned	01-31-95
Joshua M. Javits	01-19-88	Resigned	11-14-93
Charles L. Woods	01-09-86	Resigned	01-15-88
Helen M. Witt	11-18-83	Resigned	09-18-88
Walter C. Wallace	10-12-82	Term Expired	07-01-90
Robert J. Brown	08-20-79	Resigned	06-01-82
Robert O. Harris	08-03-77	Resigned	07-31-84
Kay McMurray	10-05-72	Term Expired	07-01-77
Peter C. Benedict	08-09-71	Deceased	04-12-72
David H. Stowe	12-10-70	Retired	07-01-79
George S. Ives	09-19-69	Retired	09-01-81
Howard G. Gamser	03-11-63	Resigned	05-31-69
Robert O. Boyd	12-28-53	Resigned	10-14-62
Leverett Edwards	04-21-50	Resigned	07-31-70
John Thad Scott, Jr.	03-05-48	Resigned	07-31-53
Francis A. O'Neill, Jr.	04-01-47	Resigned	04-30-71
Frank P. Douglass	07-03-44	Resigned	03-01-50
William M. Leiserson	03-01-43	Resigned	05-31-44
Harry H. Schwartz	02-26-43	Term Expired	01-31-47
David J. Lewis	06-03-39	Resigned	02-05-43
George A. Cook	01-07-38	Resigned	08-01-46
Otto S. Beyer	02-11-36	Resigned	02-11-43
John M. Carmody	07-21-34	Resigned	09-30-35
James W. Carmalt	07-21-34	Deceased	12-02-37
William M. Leiserson	07-21-34	Resigned	05-31-39

1. Term expired July 1, 2006.

2. Term expired July 1, 2005.

3. Term expired July 1, 2004.





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